

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 74-1902

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**ORIGINAL**

In The  
**United States Court of Appeals**

For The Second Circuit

MARIA IANUZZI,

*Plaintiff-Appellant,*

vs.

SOUTH AFRICAN MARINE CORP.,

*Defendant and Third Party Plaintiff-Appellee,*

vs.

INTERNATIONAL TERMINAL OPERATION CO., INC.,

*Third Party Defendant-Appellee-Appellant.*

## JOINT APPENDIX

Volume I, pp. 1a - 300a

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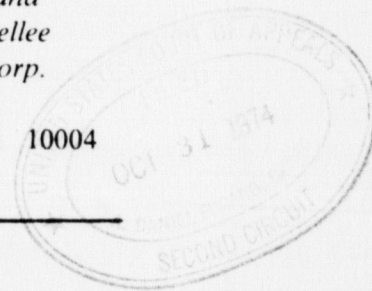
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## TABLE OF CONTENTS

### Appendix

	Page
Docket Entries . . . . .	A
Excerpts of Transcript of Proceedings Before Owen, D.J., Dated May 15, Through May 30, 1974 . . . . .	1a
Motions . . . . .	969a
Summations . . . . .	1027a
Charge of the Court . . . . .	1100a
Verdict . . . . .	1132a
Memorandum and Order (Filed June 17, 1974) . . . . .	1144a

### Witnesses

Guiseppe Coppola:	
Direct . . . . .	27a
Cross . . . . .	71a, 207a
Redirect . . . . .	265a
Recross . . . . .	269a
Fred Garofala:	
Direct . . . . .	92a
Cross . . . . .	106a
Redirect . . . . .	175a
Frank Scotto:	
Direct . . . . .	183a, 338a
Cross . . . . .	348a, 363a
Recross . . . . .	389a

## Contents

	Page
Mr. Gous:	
Direct . . . . .	275a, 681a
William Pitt:	
Direct . . . . .	289a, 821a
Edward Ferenczy:	
Direct . . . . .	393a
Cross . . . . .	469a
Redirect . . . . .	555a
Recross . . . . .	562a
P. Edward Napolitano:	
Direct . . . . .	588a
Cross . . . . .	623a
Redirect . . . . .	659a
Recross . . . . .	660a
William Wheeler:	
Direct . . . . .	779a
Cross . . . . .	796a
Recross . . . . .	818a
Joseph Andre:	
Direct . . . . .	847a
Cross . . . . .	870a
Redirect . . . . .	878a
Recross . . . . .	894a

Contents

	Page
Dominic DiMaio:	
Direct . . . . .	902a
Cross . . . . .	939a
Redirect . . . . .	952a



#A

## DOCKET ENTRIES

A

69 Civil 2829 Maria Iannuzzi etc. vs. South African Marine Corp. 69 Civil 2829 2829

JUDGE DUFFY

PROCEEDINGS	Date Order or Judgment Noted
69 Filed complaint and issued summons.	
69 Filed summons and return Served South African Marine Corp.Ltd Capetown by Mr.Breckon on 7/1/69	
69 Filed ANSWER to complaint.	HGP&H
69 Filed Notice of Examination before Trial.	
69 Filed Interrogatories.	
0 Filed deft Affidavit and notice of motion Re: Compel answers to Interrogatories Ret. 3-19-70	
0 Filed deft's memorandum of law in support of its motion.	
7-70 Filed Opposing Affidavit.	
7-70 Filed Defendant's Memorandum of Law in opposition to defts. motion.	
70 Filed Affidavit pur. to Rule 9(f).	
70 Filed MEMO.END. on motion papers filed 3/5/70. Judge Wyatt agrees with the Report of the Special Master and directs that proper and responsive answers to interrogs. 7,8,10,11,14 thru 19,22,29 and 49 shall be served within 30 days from date of this order. So ordered. Wyatt, J. (mailed notice)	
70 Filed Consent Order that deft is hereby permitted to file a 3rd pty summons & complaint against International Terminal Operating Co. Inc. - MacMahon J.	
8-70 Filed 3rd party-complaint and issued summons	
5-71 Filed stip & order that the time for 3rd pty deft to ans summons & complaint is extended to 2-26-71-so ordered- BRYAN, J.	
0-71 Filed summons with marshal's return Served International Terminal Operating Co., Inc., by Mr. Nolan on 1-12-71.	
8-71 Filed deft. and 3rd party plttf. notice to take deposition of 3rd party deft. on 4-14-71	
8-71 Filed deft. and 3rd party plttf interrogs. to be answered by 3rd party deft.	
5-71 Filed stip and order that the time for 3rd party deft to answer complaint is ext. to 3-26-71. Bonsal, J.	
21-71 Filed stip and order that the time deft. to answer interrogs.pro- pounded by plttf. is ext. from 5-26-71 to 6-23-71. McGohay, J.	
-71 Filed plttf's interrogs.	
-71 Filed stip and order that time of deft to Answer with respect to the interrogs. by plttf is extended to 7-20-71 Gurfein J.	
4-71 Filed plttf's Reply to counterclaim by 3rd pty deft.	
5-71 Filed ANSWER of 3rd pty deft to 3rd pty complaint, with counterclaim.	AASAC
5-71 Filed 3rd pty deft interrogs.	
5-71 Filed 3rd pty deft notice to take deposition of deft & 3rd pty plttf.	
8-71 Filed deft & 3rd pty plttf Reply to Counterclaim.	
5-71 Filed stip & order that time for deft to object or answer interrogs. of plttf is ext. from 7-20-71 to 8-17-71-So ordered-Cooper, J.	
0-71 Filed stip and order that the time for deft. to answer interrogs. propounded by plttf. is ext. from 8-17-71 to 9-14-71. So Ordered Pierce, J.	
-71 Filed deft & 3rd pty plttf notice to take deposition of Giuseppe Coppola	
-71 Filed deft & 3rd pty plttf notice to take deposition of Frank Sette	
1-72 Filed deft and 3rd pty plttf notice to take deposition of William Pitt.	
26-72 Filed deposition of William Pitt.	
6-73 Filed Pre-Trial Memorandum of 3rd pty. Defendant.	
0-73 Filed deft's & 3rd pty.plttf's affidavit & notice of motion for, order adjourning the trial ret.6-5-73.	
0-73 Filed deft's. and third pty. plttf. pre trial memorandum.	
9-73 Filed memo ent. on motion dated May 29, 1973 for an order to adjourn trial, motion is granted. So ordered, Duffy, J.m/n	

# Docket Entries

8

MARIA IANNUZZA, ETC VS SOUTH AFRICAN MARINE CORP, ETC, VS INTL. TERMINAL, ETC.

## CIVIL DOCKET

FILINGS - PROCEEDINGS

DATE	
6-20-73	Filed order that action be set down for trial on Sept. 6, 1973 to follow the litigation then on trial or as soon thereafter as this case may be accommodated into Court's schedule. So ordered, Duffy, J.m/n
8-18-73	Filed consent order that attorneys for the respective parties can withdraw the records from this Court pursuant to subpoena for the purpose of duplicating. DUFFY, J.
9-24-73	Filed Affidavit and Notice of Motion by deft and third party plttf for an order before Duffy, J. setting the above action for trial on 11-22-73 rtble 10-2-73.
10-18-73	Filed deft. & third-pty plttf's notice of taking deposition of J. Gous on 10-26-73
Nov. 9-73	Filed memo endorsed on motion filed 9-24-73. Motion denied. DUFFY, J. mailed notices.
11-11-74	Mailed notice of re-assignment
1/8/74	pre-trial before <i>Owen J.</i>
Mar 22, 74	Filed Pltffs. Notice of Motion. Re: Second cause of action. set. 4/1/74.
May 16, 74	Filed Pltff's ANSWERS to Deft's Interogts.
May 16, 74	Filed Pltff's Supplemental ANSWERS to Deft's Interrogts.
May 15, 74	<sup>Jury</sup> Trial before Judge Owen begun.
May 16, 74	Trial cont'd
May 21, 74	Trial cont'd.
May 22, 74	Trial cont'd.
May 23, 74	Trial cont'd/
May 28, 74	Trial cont'd.
May 29, 74	Trial cont'd.
May 30, 74	Trial cont'd and concluded.
Jun 17, 74	Filed Memorandum & Order. There <sup>being</sup> no breach of warranty by either deft. or the 3rd pty deft. I dismiss their respective causes of action without costs or disbursements. So Ordered Owen J. (mailed notice)
Jun 21, 74	Filed Pltffs. Notice of Appeal from Order dismissing action on 6/17/74. (mailed notice)
Jul 2, 74	Filed Deft. & 3rd pty plttf. Notice of Cross Appeal from order of 6/12/74 to dismiss 3rd pty suit of South African Marine Corp., itf. vs. International Terminal Operating Co., Inc. (mailed notice)

-OVER-



## C

DATE	FILINGS - PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURN
7-15-74	Filed transcript of record of proceedings, dated 5-15-74	
7-15-74	Filed transcript of record of proceedings, dated 5-22-74	
7-15-74	Filed transcript of record of proceedings, dated 5-28-74	
7-15-74	Filed transcript of record of proceedings, dated 5-29-74	
Jul 16, 74	EXH Certified Record to the USCA.	
July 11, 74	FILED FIVE THE TRIAL MEMO	
July 11, 74	Filed plitff suppleme <sup>n</sup> tal Pre Trial Memo	
8-29-74	Filed transcript of record of proceedings, dated MAY, 15, 21, 22, 23, 1974.	
	Filed transcript of record of proceedings, dated MAY 28, 29, 1974.	

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 :  
5 MARIA IANNUZZI, Administratrix Before:  
6 of Estate of Mario Iannuzzi, : HON. RICHARD OWEN,  
7 deceased. : District Judge.  
8 :  
9 Plaintiff, :  
10 :  
11 vs. : 69 Civ. 2829  
12 SOUTH AFRICAN MARINE CORP., :  
13 :  
14 Defendant and Third-  
15 Party Plaintiff :  
16 :  
17 vs. :  
18 :  
19 INTERNATIONAL TERMINAL :  
20 CO., INC., :  
21 Third Party Defendant.  
22 :  
23 -----X

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STENOGRAPHER'S MINUTES



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

MARIA IANNUZZI, Administratrix of :  
Estate of Mario Iannuzzi, Deceased. :

Plaintiff

vs.

SOUTH AFRICAN MARINE CORP.,

Defendant and Third-  
Party Plaintiff

69 CIV. 2829

vs.

INTERNATIONAL TERMINAL OPERATING  
CO., INC.,

Third-Party Defendant.

-----X

May 15, 1974  
2:00 o'clock p.m.

Before:

HONORABLE RICHARD OWEN, D. J.

APPEARANCES

EDWARD D. LORY, ESQ.  
Attorney for the Plaintiff

WILLIAM P. KAIN, JR., ESQ. and  
THOMAS F. MOLANANPHY, ESQ.  
Attorneys for Defendant and Third-Party Plaintiff

JOSEPH ARTHUR COHEN, ESQ.  
Attorney for Third-Party Defendant

THE COURT: Mr. Lory, you may proceed.

2

MR. LORY: If Your Honor please, Mr. Kain, Mr. Cohen, Mr. Molananphy, Mr. Foreman, Ladies and Gentlemen of the Jury: At this time, according to the regular procedure followed in this court, I have the privilege of addressing you to tell you more or less what my intentions of proof are. But I ask you, before I go into the details of the case, to show all the patience that you possibly possess, for this reason:

To my mind a lawsuit is nothing more or very similar to going to the store to buy a little red wagon. And this little red wagon when you see it assembled you think this is what you are getting, but it's not what you are getting because when you go that evening you get a flat box with a bunch of parts.

At the end of this case the judge is going to give you the instructions of how to put those parts together. Please listen to the facts as they come from the witness box, not what I am saying, not what my co-counsel will say. Wait until the conclusion of the case until you get the instruction sheet as to what to do with the evidence that you hear.

We are here because Mario Iannuzzi was a long-shoreman. He was, in fact, as we will show you, an assistant ship's foreman, which puts him a few grades above the



1 regular longshoremen. His functions are, or his job  
2 involved, seeing that a vessel is loaded or unloaded -- in  
3 this particular case loaded.

4 We will show you that during the course of events  
5 of November 27, 1968, and this is a very important date,  
6 Mario was born on November 24 many years before. He was 42  
7 years of age. I will give you the exact dates of birth.  
8 While he was working they were loading cars.

9 From what you have told us on the voir dire you  
10 know nothing about ships and let me assume that you do not  
11 know anything about the ship. Let me try and explain to you  
12 what you will hear so you can put it in proper perspective.

13 A ship is equipped. At this particular hatch,  
14 which will be number 3, and it's the SOUTH AFRICAN HUGUENOT,  
15 at the forward part of this ship we now have a house which  
16 is a structure between hatches. On top of this is located  
17 winches or at least a winch control because part of the  
18 mechanism is down below in this particular house. And also  
19 on this platform we have what is referred to as ship's booms.  
20 They are similar to derricks but we have two.

21 They are put up in such a way that they can pick  
22 up a piece of cargo here, lift it up vertically, carry it  
23 across at a level plank and deposit it down. The cargo will  
24 come from the pier and this will be referred to possibly as  
25 the pier or the string piece, that is, that part of the pier

1 that is flat and open without a house on it. The cargo  
2 will be there. It will come on to a cargo hook.

3 Now comes the difficult part. We have these  
4 two booms that are positioned more or less in this particular  
5 fashion. One is over the dock, the other one is placed over  
6 the square of the hatch.

7 Now I have to interrupt myself. The square of a  
8 hatch -- what is the square of a hatch? If we assume that  
9 this is the deck of a vessel and in the center of this we  
10 have an opening, and around this opening we have a rail  
11 which is known as a coaming, the idea of the whole situation  
12 is to pick up the cargo and put it down the center of that  
13 opening or wherever the boom is spotted.

14 The boom that is over the hatch is known as the  
15 up and down boom. The boom over the pier has a longshoreman  
16 name of Burton boom. There are winches which have motors  
17 with controls, and each have a drum and the wire from these  
18 drums will run up through the head of the booms, through  
19 the pulleys that are up there and then converge into a  
20 common situation with one cargo hook.

21 This enables us, by using the Burton boom as I  
22 indicated with my left hand before, to take a strain on that,  
23 that is to pull it up, whatever cargo we have on there.

24 Now, the operation goes this way: we have got  
25 to slack off and let out the wire here and take up the wire



5 1 with the up and down. If we do it properly and if we have  
2 an experienced longshoreman, and we do have in this case,  
3 we will carry that horizontally across until it comes under  
4 the head of the up and down boom at which time we now reverse  
5 the procedure.

6 We slack off on this to let it go down and we  
7 also slack off on the other one to let it also go down. But  
8 the critical maneuver here is to be able to carry it across  
9 and to move your levers in such a manner.

10 We will show you that on this day at approximately  
11 7:15, if I remember the hour correctly, that as they were  
12 carrying this vehicle -- it was an automobile -- lifting it  
13 up from the dock with the Burton boom, the Burton winch  
14 started to spull out, that is the runners started to go  
15 in such a fashion that the up and down could not take up  
16 the slack to cause this vehicle to swoop in such a fashion  
17 that Mario, Mr. Iannuzzi, as he was talking to someone  
18 down in the hatch which was one level below, he was caused  
19 to be struck by this vehicle, thrown into the hatch, sus-  
20 tained head injuries from which he died five days later.

21 In capsule form this is what we have. This is  
22 the essence of this case. Mario was survived by a wife and  
23 two minor children at that time. One has since reached the  
24 age of 20, 21 years. The other one has a few more years to  
25 go before she reaches 18.

1           What does the plaintiff say? We make claim  
2 against the ship and the ship alone. We make no claim  
3 against the stevedore. In fact, we have here, in essence,  
4 two lawsuits. Iannuzzi versus the South African Marine  
5 Corp, the HUGUENOT in particular, and we have a second  
6 lawsuit, South African Marine as against ITO.

7           The theories of liability or what we say with  
8 respect to this as to the two lawsuits are completely  
9 different. Plaintiff maintains, and we will show you, that  
10 the HUGUENOT, this particular vessel, was unseaworthy, that  
11 there was a condition aboard this vessel that resulted in  
12 this accident through no fault of anybody.

13           Number 2, we say that they were negligent,  
14 negligent in the way that they took care and maintained  
15 these particular winches. Had they been maintained properly  
16 the accident would not have happened. We will offer proof  
17 to you -- and again as the judge told you earlier in a  
18 criminal case, and I am sure you have heard it on television,  
19 beyond a reasonable doubt -- with preponderance of the  
20 weight of the evidence, and the judge will explain to you  
21 what this means at the conclusion of the case.

22           We make claim for loss of services, society and  
23 support. We make claim for loss of nurture and guidance.  
24 We make claim for economic loss. There is no point in going  
25 into these figures now. But these are part of it. We make  
claim for funeral expenses.



7 1 There are other elements that are involved in  
2 the damage aspect that we will come to later. But at this  
3 particular point with respect to what we have -- the hour  
4 is late and I don't want to overburden you with respect to  
5 everything. I am sure everyone wants to go.

6 But in fairness to my people I must tell you what  
7 my intended proof is. Let me state one thing more. Two  
8 people observing something will give you a different version  
9 of what it is so, therefore, I do not promise to you --  
10 and at this particular point I am in the position of making  
11 promises to you as to what my proof will be. I do not  
12 promise to you that all the facts will dovetail.

13 . Two people seeing the same thing will express  
14 it and describe it in a different fashion. There may be  
15 gaps here. Remember, in the presentation of any case all  
16 we can do is reflect back as to what occurred. I was not  
17 there. The witnesses who were there would have limited  
18 knowledge as to what it was. Accept the facts as they come  
19 from the witness stand.

20 We will call an expert to tell you what the good  
21 maritime practice would be, try and explain to you what  
22 exactly happened here, what caused this accident.

23 As I said in the beginning, please exercise the  
24 utmost patience. Listen to what is said here. Listen to  
25 what the facts are and this is what you will judge because

1 you are judges in this case. You are judges of the facts.  
2 The judge will take care of the law. Listen to what the  
3 facts are.

4 At the end of the case when all the facts are  
5 in and you are told what to do with them, listen to the  
6 judge's charge. At that particular time I am sure that you  
7 will render a verdict in favor of my client.

8 Thank you.  
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JQpa

THE COURT: Mr. Kain.

MR. KAIN: May it please the Court, Mr. Lory, Mr. Cohen, Mr. Foreman, ladies and gentlemen of the jury:

I represent the defendant shipowner and I would endorse at least those portions of Mr. Lory's remarks in which he asks you to reserve decision and listen to the facts. This is, in a sense, a relatively complicated case and it is because more so than usual, you are all I gather from your answers to the questions put to you by the Judge, unfamiliar with not only the process we have here but to some extent the terminology, the type of equipment used and with respect to this I should tell you that this particular ship, the HUGUENOT, has hydrolic winches. They are not electrical or steam. They are hydrolically operated.

Because as his Honor told you, what I say to you is not evidence, so I don't propose to get into, at least at this time, with you in trying to describe how these winches operate. There is a wide dispute in this case as to what caused the injuries which ultimately resulted in Mr. Iannuzzi's death. We contend that it was not through any negligence on the part of the ship or any defect on her equipment. We propose to produce experts to testify for you as to how this equipment

JQpa

9

operates, what its features are. But there are one or two things that I would like to just put up as signposts for you so that you will look for them when you hear the testimony of the various witnesses. You will hear testimony from the witnesses in this case, and incidentally, I should tell you that this being a shipboard case, the ship's witnesses are of necessity seagoing men and I have taken testimony of three of the ship's witnesses by oral deposition, that is, we brought them in, we sat them down, they were asked questions, sworn testimony, all sides had an opportunity to cross examine them and his Honor will instruct you that this is valid testimony and he will tell you what the law is with respect to the fact that it should be given equality.

But you will hear testimony in this case that following this accident when Mr. Iannuzzi was allegedly knocked into this hatch square by this automobile, you will hear the testimony of the winch operator as to what happened, why these winches he says didn't work. You will also hear testimony, and I ask you to look for this particularly, that by some magic, why this car was suspended after Mr. Iannuzzi was allegedly hit, why it was still suspended by the cargo hook, for some unknown reason the



1 JQm

2 winch repaired itself.

3           You will hear testimony that they put the  
4 car over onto the pier, that they re-rigged this  
5 particular winch, by that I mean they took the car  
6 off, put spreaders, they used a pallet and brought a  
7 stretcher on board and they took this injured man off  
8 the ship using these same alleged winches. This is the  
9 testimony.

10           As I say, this winch supposedly repaired  
11 itself and I just ask you to look for this. You  
12 will hear testimony from the winch operator, and his  
13 testimony incidentally was taken in pre-trial procedures.  
14 He has testified as to what happened. You will hear his  
15 testimony. We contend and we propose to show you through  
16 the testimony of an expert that what this witness --  
17 and when I say this witness I mean the man who was  
18 operating both winches, what he says happened in effect  
19 could not happen, winches of this type, for  
20 reasons that the expert will explain to you. But as  
21 his Honor has pointed out to you, as Mr. Lory mentioned,  
22 what I say, what Mr. Lory says, what Mr. Cohen says,  
23 none of this is testimony. And I join with Mr. Lory  
24 in asking you to reserve your decision in this case,  
25 wait until you have all the component parts at the end

JQpa

11

of this case and his Honor has instructed you as to the applicable law and what is to be done by you in applying this law and I at least will be content, as will my client, to abide your decision.

There is one other thing that his Honor mentioned to you when he was quiring this jury and I would ask you in the course of the trial, and it will be as I say somewhat involved, his Honor mentioned on one occasion that when you get into a jury box you don't check your common sense out in the hallway. You don't check your experience as human beings, your experience living in society. I would ask you in this case to do exactly that. When you're evaluating the testimony, when you are listening to the witnesses, I ask you to apply not only your common sense but your experience as reasonable individuals living in society.

Thank you.

THE COURT: Mr. Cohen.

MR. COHEN: May it please the Court, Mr. Lory, Mr. Kain, Mr. Foreman, ladies and gentlemen of the jury:

I am cognizant of the fact that I stand up at a very bad moment because you all appreciate that as



JQpa

12

1 soon as I am done talking we can go home. But this is  
2 a serious claim with serious claims being made. All  
3 parties are interested and I ask you folks to please  
4 bear with me for a few minutes so I can make my  
5 opening statement.  
6

7 THE COURT: You take your time and say whatever  
8 you feel is appropriate. I am sure the jury will  
9 listen attentively.

10 MR. COHEN: As you have been told first by  
11 the Court and then by Mr. Lory and then by Mr. Kain and  
12 now by me what lawyers say to you folks not only now  
13 but at any stage in the trial is not proof of any facts  
14 and the last time I said this to a jury I heard  
15 somebody whispering, "What are you bothering talking  
16 to us for?" The reason is this: Mr. Lory told you about  
17 a little red wagon and I am going to talk to you about  
18 jig-saw puzzles. I think you are all familiar with  
19 jig-saw puzzles, the little cut-out pieces of cardboard  
20 in various shapes. If you get a pile of them and you  
21 haven't seen the picture on the box before you have  
22 gotten a pile of them and start to try to put them together  
23 you run into all kinds of trouble because you are not  
24 sure what fits where. If you have gotten the box brand  
25 new, unopened, there is usually a picture on the outside

JQpa

13

and that picture on the outside shows you what the entire jig-saw puzzle should look like when you get it all assembled. My feeling is that the reason we talk to you at this stage of the game is to sort of try to give you an idea as to what the picture on the outside is so that as you hear the little pieces of testimony coming from the witnesses and the exhibits you are able to channelize in your own mind where they belong in the entire picture and get it together in order and I hope I am making this a little clearer to you and not confusing you more.

Let me try to give you a picture and I am not going to go into too much detail, of what this entire lawsuit is about, a broad, over-all picture so you can sort of understand what the different parties are contending and why they are calling different witnesses.

As Mr. Lory indicated you really have two lawsuits here compressed into one for reasons of judicial economy and efficiency and that really makes sense. My client is not involved in the main lawsuit which is brought by Mrs. Iannuzzi against the South African Marine Shipping Company. There was indeed an accident on November 24, 1968 in which Mr. Iannuzzi, while working aboard this South African ship was injured,



JQpa

14

received injuries to his head from which he died a few days later and I don't think anybody disputes that.

Mrs. Iannuzzi claims that those injuries were brought about because the ship was defective, it had some defective piece of equipment, namely a winch, and she says, through her attorney, Mr. Lory, because that winch was defective it malfunctioned when this accident happened and caused this horrible accident completely without any fault on the part of her husband, causing him to get knocked down and receive skull fractures and because of that, she claims, this ship should make good to her her loss.

You will hear more about her loss when she takes the stand and so on.

The ship, on the other hand, to give you the issues in the main case, says, "No, we deny," the ship says, "that there was anything wrong with our winch. That is not what caused the accident. There was nothing wrong with it. So if you can prove there was something wrong with the winch," the ship says, "then we are not liable." In very lay language and in a nutshell as best I can, those seem to me to be the issues in the main case between Mrs. Iannuzzi and the South African Shipping Company.

JQpa

15

1  
2 If they prove that this winch was defective  
3 at the time of the accident and that that defect in the  
4 winch caused the accident and the resultant death then  
5 I think it would be in order for you to find a verdict  
6 in her favor. On the other hand, if she fails to  
7 prove that the accident happened because of a defective  
8 winch then I think the answer is also obvious, you  
9 have to find a verdict in favor of the defendant shipowner  
10 against Mrs. Iannuzzi.

11 That is the issue in the main case. My  
12 client is not being sued there. My client is  
13 being sued in what is called a third-party case, the  
14 ship, the South African Marine Company, although they  
15 on the one hand deny there was anything wrong with  
16 their winch, and they deny they were responsible for  
17 this accident, they say on the other hand, however, if  
18 we were responsible and if you find us liable then you  
19 should give us indemnity from ITO. ITO are the  
20 initials for my client and they are commonly known by  
21 those initials. What the ship is saying is that  
22 even if you don't believe our case that there was nothing  
23 wrong with our winches, nonetheless we shouldn't suffer  
24 any money damages in this case, we should get it all back  
25 from ITO.



1  
2 In response to that claim by the ship which  
3 is the only claim my client is directly interested in  
4 we say, no. We say, in behalf of our position, that  
5 Mr. Shipowner, if you are liable in this case you are  
6 liable because you did not have safe and proper gear  
7 that worked well. If you are liable in this case --  
8 and whether or not is something you folks will have  
9 to find in the first part of the case -- we say if you  
10 are liable in this case it's your own fault because this  
11 was your winch. You gave it to us. It was your duty  
12 to maintain it and keep it in good repair and if it  
13 malfunctioned as claimed it's not our fault. We say  
14 that Mr. Shipowner if you are liable to the plaintiff  
15 then you should be stuck. You are the one that should  
16 pay the money for these damages, not us. That in  
17 broad outline are the issues between the three parties  
18 here.

19 So, I think you can appreciate from what I  
20 have said that one of your key jobs after you hear  
21 all the proof, one of your key jobs is to find out just  
22 how and why this accident happened. And it's not  
23 going to be limited to that issue about the bad winch  
24 or a good winch because there is something else in this  
25 case that makes it a little more complicated for you.

JQpn

17

1 And no one has mentioned it. But I want to tip you off-  
2 in advance because it is in the case. I don't know how  
3 it works into the case. In other words, I am not sure  
4 how you evaluate it but that is up to you to do.  
5 Everybody involved in this lawsuit has a different job.  
6 Your job as jurors is to decide the facts and figure  
7 out where the truth lies as to just what did happen.  
8 You are the judges of the facts and no one else can  
9 take this function from you. The Judge is the judge  
10 of the law. He has a different job than yourselves.  
11 His job is to tell all of us what the legal rules are.  
12 His job is to keep order and decorum in the courtroom,  
13 to keep lawyers from fighting with each other and  
14 things like that and to explain to you at the end of the  
15 case what the proper rules of law are and you must listen  
16 to him just as we must listen to him, even if you may  
17 disagree with the law. You have to accept it. That is  
18 his job.

19  
20 The lawyers have the job of presenting  
21 proof to you on what they think to be relevant parts of  
22 the case. In other words, our function really is to  
23 bring witnesses and prove to you so that you sitting here  
24 with this tremendous responsibility of having to  
25 decide the facts, decide just what happened, you have got



JQpa

1 to have available to you whatever proof may exist and  
2 every party involved in the lawsuit has the right to have  
3 an attorney come to Court and bring in whatever proof  
4 they think might be relevant to assist the jury in  
5 properly deciding the case because I think you will  
6 appreciate if you only got half a picture it can easily  
7 be an inaccurate picture. Some of the proof you are  
8 going to hear in this case is that in addition to my  
9 client's working aboard that vessel at the day of this  
10 accident, this South African Marine Company had another  
11 contractor working there doing carpentry work and this  
12 other contractor had a name like New Jersey Export  
13 Carpentry Company or something like that.  
14

15 This other company, which is not a party  
16 to this lawsuit for some reason, this other company  
17 that worked aboard that ship doing carpentry work  
18 had a number of marine carpenters working on the ship  
19 and they were working at this very hatch of the ship  
20 where the accident happened at the time the accident  
21 happened. You will see that in connection with the doing  
22 of their work these carpenters had to pass along planks  
23 of lumber from one deck down to another deck. They had  
24 some carpenters on the main deck, some carpenters on  
25 the deck below and they had to get the lumber down from

JQpa

19

the main deck to the deck below and they were passing it, sort of like a bucket brigade type of situation from one to the other.

You will see that immediately after this accident happened one of those carpenters, a man named Joseph Andre, whom I have under subpoena and I intend to produce in this courtroom, a man named Joseph Andre confessed to ship's personnel, to police officers who came to investigate -- this was a serious accident.

MR. LORY: At this point I must object. As long as Mr. Andre is under subpoena whatever his alleged confession may be, let him make it in open Court as opposed to promised proof.

THE COURT: I think it's appropriate for counsel to say what he expects the witnesses are going to testify to.

MR. LORY: It's not the way he is phrasing it.

THE COURT: Maybe the word confession is inappropriate but if you limit yourself to what you expect the proof to show in that regard I think it's proper.

MR. COHEN: I will accept Mr. Lory and his



1 JQpa

2 Honor's suggestion. I think you will see that immediately  
3 after this accident Mr. Andre admitted to various people,  
4 ship's personnel, police officers investigating into  
5 this serious accident, that the accident was caused because  
6 he in the act of passing one of these long planks of wood  
7 from himself to another carpenter permitted that long  
8 plank of wood to get struck by the draft -- the  
9 automobile being taken across the ship -- with the end  
10 result that that plank of wood was knocked against  
11 Mr. Iannuzzi and either gave Mr. Iannuzzi the  
12 fractured skull or caused him to fall. It's a little  
13 unclear but you will see that Mr. Andre right after this  
14 accident told a number of people that the accident  
15 happened because of something that he was doing with a  
16 large piece of wood. That is proof that I think is  
17 relevant to your consideration in trying to figure out  
18 just what happened here. It does not really directly  
19 affect my client because we are no part, strictly  
20 speaking, of that main lawsuit but nonetheless I think  
21 in order for you folks to do the right and proper thing  
22 and to be able to come to a proper judgment or verdict  
23 you should have from each of us whatever proof any of  
24 us knows about so that you can consider it, you can  
25 give it whatever weight it deserves and you can put all

1 JQpa

2 the pieces of this little puzzle together. By calling  
3 it a little puzzle please don't misunderstand me, I am  
4 not trying to play down this accident. It was a very  
5 serious accident and a man did die and we have  
6 serious issues between us and I just wanted to take a few  
7 minutes of your time which I greatly appreciate to  
8 try to present this situation as I know it and as my  
9 client understands it to be.

10 Thank you very much.

11 THE COURT: Thank you, gentlemen.

12 Ladies and gentlemen, we will stand in  
13 recess until 10:00 in the morning. You will report  
14 tomorrow morning promptly at 10:00 to the jury room and  
15 we will go forward with the proof in this case at that  
16 time. Overnight, as I say, each time you leave  
17 here keep an open mind and do not discuss this case with  
18 anyone, among yourselves or with anyone else.

19 Good night, ladies and gentlemen, we will  
20 see you tomorrow morning at 10:00.

21 (Jury left the courtroom.)

22 THE COURT: What I wanted to say to you was  
23 if you get to a point where you are discussing  
24 resolution of this matter, please do it before 10:00 or  
25 after 5:00 or before 2:00 or whenever you recess for



1 JQpa

22

2 lunch because I would like to avoid the situation where  
3 at 10:00 someone says to me if I can reach X or Y by  
4 telephone, I think we can come up with this or that  
5 offer. That is my only suggestion. I have had that  
6 happen.

7 MR. KAIN: We spent the entire day yesterday  
8 so I don't think we will have this problem tomorrow.

9 May I ask your Honor before we adjourn, the  
10 defendant at least wishes to move before your Honor at  
11 this time for your Honor's direction that all fact  
12 witnesses be excluded, by that I mean they are  
13 not sitting here throughout the testimony, that they be  
14 excluded in sequence until after they have testified.

15 THE COURT: That would not include Mrs. Iannuzzi  
16 since she is a party.

17 MR. KAIN: No, she isn't a fact witness.

18 THE COURT: I see no reason not to do that  
19 with any other witnesses and absent some compelling reason  
20 to the contrary I am going to grant that application.

21 Mr. Dorsa, in the morning and such other  
22 times that are appropriate if you will please make  
23 that announcement and so we don't have any unnecessary  
24 slip-ups, gentlemen, it's always entirely possible that  
25 someone is in the room and nobody knows it and he doesn't

JQpa

23

know it because he just comes here and waits. If any attorney sees any party or any witness, rather, sitting in the spectator seats would you please let us know.

MR. KAIN: I am only moving with respect to fact witnesses, your Honor, that is people who were aboard. I am not referring to experts, doctors or people of this sort.

MR. LORY: There is only one witness that has not been deposed. I don't know whether that presents a problem on the facts.

THE COURT: I grant the application and to the extent that any attorney sees any party or witness sitting out there who doesn't appear to know it, please do something about it. I think you owe that to Mr. Dorsa who will do his best to enforce it.

See you in the morning, gentlemen.

(Court adjourned to 5-16-74 at 10:00 a.m.)

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1 JQ pa

2 MARIA IANNUZZI, Administratrix of Estate  
3 of MARIO IANNUZZI, Deceased,

4 vs.

5 SOUTH AFRICAN MARINE CORP.,

68 CIV 2829

7 vs.

8 INTERNATIONAL TERMINAL OPERATING CO., INC.

9 May 16, 1974.

10 10:00 a.m.

11 (Trial resumes.)

12 (In open court, jury present.)

13 THE COURT: Mr. Lory, you may begin.

14 MR. LORY: If your Honor please, for the  
15 purposes of jurisdiction I offer into evidence the  
16 Certificate of Naturalization for Mario Iannuzzi and the  
17 Certificate of Naturalization issued by the Surrogate's  
18 Court of Kings County.

19 THE COURT: Any objection?

20 MR. KAIN: If your Honor please, jurisdiction  
21 is conceded. I don't think it's necessary.

22 THE COURT: Fine.

23 MR. LORY: I call Guiseppe Coppola.

24 ANTHONY AMARANTE, an official  
25 interpreter was duly sworn to translate  
from English to Italian and from Italian

JQpa

Coppola-direct

25

to English the questions and answers as follow:

G U I S E P P E C O P P O L A , called as

a witness by the plaintiff, having first

been duly sworn, testified as follows:

THE COURT: Any of the gentlemen have any questions of the qualifications of the interpreter?

MR. KAIN: No, your Honor.

DIRECT EXAMINATION

BY MR. LORY:

Q Mr. Coppola, what is your occupation?

A Longshoreman.

Q How long have you been a longshoreman, Mr. Coppola?

A 19 years.

Q There are various categories of jobs under the general category of longshoreman. What are you, sir, are you a hold man, are you a deck man, are you a dock man?

A Deck man.

Q What are the duties of a deck man? What does a deck man do?

A You go on board the vessel, the first thing you do is position the booms. You rig the booms, you put one over onto the dock and one over the hatch. You put



1 JQpa Coppola-Direct 26  
2 the lines in place, you see that everything is in  
3 order and then you take orders from the boss as to what  
4 has to be done.  
5 Q I call your attention, Mr. Coppola, to the  
6 year 1968. What was your job in the year 1968?  
7 A Right now I do not remember exactly what it  
8 was in '68 but I know that I spent at least ten years  
9 down in the hatch and the rest of it I spent as a  
10 deck man.  
11 Q Did you know Mario Iannuzzi?  
12 A Yes, sir.  
13 Q How did you know Mario Iannuzzi?  
14 A Because we are countrymen. I knew him in  
15 Italy and I knew him here in this country. He is my  
16 countryman.  
17 Q Do you remember the day that Mario had an  
18 accident?  
19 A Yes.  
20 Q On the day that Mario had an accident which  
21 was November 24, 1968 were you working on the same  
22 ship that Mario was working on?  
23 A Yes, sir.  
24 Q What was your job that day?  
25 A Deck man.

JQpa

Coppola-direct

27

Q Does that mean that you were one of those persons who was operating the winches?

A Yes.

Q Do you remember the name of the ship that you were working that day?

A The South African HUGUENOT.

Q Do you remember what time of day it was that you first went aboard that ship on November 24, 1968, the day the accident happened?

A We went to work at 8:00 in the morning.

Q Was that the first day that you worked aboard the HUGUENOT during this particular voyage?

A No, this was the second day. I do not remember exactly whether it was the second or the third but I believe it was the second.

Q What were you doing aboard the HUGUENOT on November 24, 1968?

A First we loaded general cargo. Then later on sometime towards evening we got the order to load cars.

Q When you came aboard the vessel on the day the accident happened what hatch did you go to?

A Hatch number three.

Q Did you work hatch number three the day before?



JQpa

Coppola-direct

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A Yes.

3

Q Do you remember what day of the week it was,

4

November 24, 1968?

5

A No.

6

MR. COHEN: I have a perpetual calendar

7

here if it will help you.

8

MR. LORY: I know what the day is.

9

Q If I told you that November 24, 1968 was

10

a Sunday, will you accept that?

11

A Yes, I do remember it now, Sunday.

12

Q Therefore, instead of were my questions

13

always going to a number with respect to the date,

14

will you understand what I am talking about if I refer

15

to Sunday as the day of the accident and Saturday as the

16

day you were aboard the vessel before that?

17

A Yes, Saturday and Sunday, and Sunday was the

18

day of the accident.

19

Q On Sunday when you first came aboard the

20

vessel, the South African HUGUENOT, I think you told

21

me you came aboard at 8:00 in the morning. At that

22

particular time when you first came aboard that Sunday,

23

was the number three hatch open or was it closed?

24

A When we went there, I do not remember now

25

whether it was opened or closed. However, whether it's

JQpa

Coppola-direct

29

open or closed, this is not our job, it's the job of the sailors.

Q What kind of coverage did the number three hatch of the S.S. HUGUENOT have over the number three hatch?

A Automatic pontoons.

Q Were those the type of doors that would fold like an accordian?

A They fold in and among themselves.

Q Is it your testimony that the crew would do whatever was necessary to open the number three hatch?

A Yes, the crew opened up.

Q Can you tell me how many floors or deck levels there was in the number three hatch of the S.S. HUGUENOT?

A You have the lower hold, the lowest point in the hatch, you have the second deck level and the third one.

Q That is in addition to the main deck?

A Yes, the main deck is the first deck.

Q So the jury understands, we start with the main deck and now we are going to go down. You have one level below the main deck, is that correct?

A Yes, sir.



JQpa

Coppola-direct

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Q And below that you have another 'tween deck or do you have the lower hold?

A There is a 'tween deck.

Q And then below the second 'tween deck going down you now have the lower hold, is that correct?

A The lower hold, yes, sir.

Q You said you were loading cargo during this voyage. On the Saturday where were you loading cargo?

A Lower hold.

Q Did there come a time when you put as much cargo as you had been told to put into the lower hold?

A What happens is when the cargo finishes then the vessel is scheduled to go to another port but that is none of our concern.

Q I don't think you understand my question, Mr. Coppola. I will put it to you again. On the Saturday when your work began you started putting cargo into the lower hold of the number three hatch of the South African HUGUENOT, is that correct?

A Yes.

Q Did there come a time when you finished loading cargo into that lower hold of number three hatch of the South African HUGUENOT?

A Yes.

JQpa

Coppola-direct

31

Q Do you remember whether that was on the Saturday or on the Sunday that you finished loading cargo into the lower hold?

A I don't remember exactly but I believe that it was Saturday.

Q Once you have completed loading or putting cargo into the number three hatch lower hold what is the next thing that is done?

A We call for the officer, the doors are closed and then we continue our work.

Q By that you mean that the covering of the lower hold, the continuation of the square of the hatch, is covered by the crew?

A Yes, sir.

Q Did you continue working in the number three hatch after that?

A Yes.

Q Were you still loading cargo?

A Yes.

Q Where were you loading the cargo now?

A In the wings.

Q At what deck levels?

A Right now I don't remember exactly. Do you mean what level in the hatch?



JQpa

Coppola-direct

32

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Q Yes.

A Forward.

Q But were you loading it now in the first 'tween deck down or the second 'tween deck now?

A The first 'tween deck below, after the lower hold it's closed up and we work in that level.

Q Were you still loading general cargo?

A I believe so, I don't remember exactly but mostly general cargo.

Q How far did the work of loading advance on Saturday?

A I don't remember.

Q When you started to work on Sunday where were you loading cargo?

A Sunday?

Q Yes.

A The second 'tween deck.

Q Did there come a time when you finished loading cargo in the second 'tween deck on the Sunday?

A To finish up the 'tween deck?

Q Yes.

A Yes.

Q Do you remember about what time of day that was?

JQpa

Coppola-direct

33

A That we finished?

Q Whatever deck level you started that morning that you finished.

A You mean at nighttime when we finished the ship?

Q All I am trying to do, Mr. Coppola, is have you tell the jury how the work progressed, how far you were working, where you were working at more or less general hours of Saturday and Sunday. I realize that you did not look at your watch so you could remember now that it was 2:00 or 3:00 precisely, but just generally.

A You mean the time when we finished the vessel?

Q No. At the time the accident happened on Sunday, I think you said or you made reference to loading of cars, is that right?

A Yes, the last.

Q Where were you working or where were you putting cargo before you took the cars aboard?

A Down in the hatch in the 'tween deck.

Q Which 'tween deck at this point?

A The second 'tween deck.

Q Did there come a time before you brought the cars aboard that you finished loading cargo into the lower 'tween deck, which is the second deck that you



JQpa

Coppola-direct

34

referred to?

A Yes.

Q When that was finished did they cover over the square of the hatch again?

A Yes, they covered up the next 'tween deck.

Q Where next were you told to put cargo?

A The cars in the refrigerator compartments, this vessel also has refrigeration compartments. They call them lockers.

Q Were these lockers in the wings of the number three hatch, one deck below the main deck?

A Yes.

Q And are the wings of the hatch those parts of the hatch that are under the main deck and just outside the square of the hatch?

A Yes, within the wings.

Q Who gave you the order to take cars aboard the vessel?

A The boss.

Q Which boss?

A The big boss and then he calls the assistant foreman.

Q Who was the big boss that day?

A I think his name is Marty and the other fellow i

JQpa

Coppola-direct

35

Robbie.

Q Did they give you orders to take automobiles aboard the vessel and put them into number three hatch?

A Yes.

Q Before you took the first car aboard was anything done?

A Relative to what, as to what we did?

Q Did you have to do anything with the position of the booms?

A Yes, we had to regulate them because when you load general cargo and things like that we position the booms in a perfect position to load the cars. And when everything was ready and we saw everything was in order we then started to work.

Q When you say you had to re-position the boom, what did you mean, did you have to lower or raise the booms so that the plumb line from the head of the boom would be in a given place?

A We put it in a position with a plumb line so that the automobile could go by free and clear.

Q Did you have to position both the up and down and the Burton boom at this particular time?

A Both of them, certainly.

Q Do you remember where you had positioned the



JQpa

Coppola-direct

36

1  
2 up and down boom, the one that is over the square of  
3 the hatch?

4 A In the hatch.

5 Q Do you remember where in the hatch? If you  
6 divide the hatch in half, where with respect to that half  
7 that was directly in front of you did you position the  
8 head of that boom?

9 A Half-way in the hatch but forward, somewhat  
10 more forward.

11 Q With respect to the Burton boom which is  
12 the one over the dock, did you have to re-position  
13 that one?

14 A Yes, we slackened off somewhat and then  
15 we put it in a position so that it could work in  
16 conjunction with the Burton, the up and down and the  
17 Burton.

18 MR. LORY: With counsel's permission I am  
19 going to lead a little bit with respect to the rigging.

20 MR. KAIN: I have no objection.

21 Q As you stood on the main deck of the ship  
22 and you looked forward where did you find the pier,  
23 on your left or on your right?

24 A I believe it was on the right side. The  
25 way the vessel was moored I believe it was on the right side.

1  
2 Q Mr. Coppola, this is the boom on the right  
3 side. Were there two lines, a guide and prevent  
4 going away from that boom to the square of the hatch  
5 holding that boom in position?

6 A I don't understand you.

7 Q Mr. Coppola, you have got the Burton boom over  
8 the dock, right? Is that correct?

9 A Yes.

10 Q And that is held in that position, the  
11 position that you select.

12 A Yes.

13 Q With a guide and preventor which are  
14 two lines that go down and are secured somewhere away  
15 from there?

16 A Yes, sir.

17 Q Is it true that with respect to the up and  
18 down boom we also have two lines coming down holding that  
19 boom in that particular position?

20 A Yes, sir.

21 Q Is it a fair statement that between the two  
22 of these booms we have got a sooner guide which  
23 pulls those booms together as far as the two lines  
24 on the side will permit?

25 MR. KATZ: If your Honor please, I am aware



JQpa

Coppola-direct

38

1 of the fact that there is some language difficulty and  
2 I have no objection to a reasonable amount of leading  
3 but it seems to me we are now reaching the point where  
4 Mr. Lory is testifying and it's difficult for me to  
5 ascertain whether the witness is able to do this on his  
6 own or not. I think the testimony should come from the  
7 witness unless there is some specific ground.  
8

9 THE COURT: I will sustain the objection.

10 MR. LORY: Will your Honor accept it subject to  
11 connection, I will have the hatch boss and maybe it  
12 will be clearer. I am trying to get the set-up with  
13 respect to how these booms were maintained.

14 THE COURT: I think the objection is well  
15 taken.

16 MR. LORY: I don't quarrel with it. If  
17 your Honor will appreciate I already said that I will  
18 lead.

19 Q Mr. Coppola, with these two booms in whatever  
20 position that you had put them in, there is a cargo fall  
21 that comes up through the head of each one, isn't that  
22 so?

23 A Yes.

24 Q From the head of these two booms, these two  
25 cargo falls, what happens to them? Where do they go?

JQpa

Coppola-direct

39

1 JQpa  
2 A They wind up on deck and they are secured  
3 on deck to hold the booms.

4 Q How many hooks are used in the loading  
5 operation?

6 A O ne.

7 Q The lines that come from the head of this  
8 boom, where did they go and what did they do with  
9 respect to this one cargo hook?

10 A They hold the two booms so that the  
11 two booms don't move so that they can load.

12 Q Mr. Coppola, when you're working as a winch man  
13 and you're loading cargo, how many winches do you  
14 operate?

15 MR. KAIN: I have an objection, your Honor.  
16 I think the witness should be asked only specifically  
17 with this particular ship and not how many winches do  
18 they use but how many did they use.

19 MR. LORY: I accept that, your Honor.

20 THE COURT: Sustained.

21 Q Mr. Coppola, on this Sunday aboard the  
22 South African HUGUENOT at number three hatch, how many  
23 winches did you operate?

24 A Forward there are two and the other two are  
25 aft.



JQpa

Coppola-direct

40

1 JQpa  
2 THE COURT: That doesn't answer the question  
3 though. Put the question again.

4 THE WITNESS: I remember that where I was  
5 working there were two forward.

6 Q And in order to bring the cargo aboard was  
7 it necessary for you to operate both these winches?

8 A Yes.

9 Q And were the lines from these two winches  
10 joined together in any way?

11 A Yes. We joined them ourselves.

12 Q What did you join them to?

13 A We put the shackles and the cargo hook underneath  
14 and another shackle on top so that it holds it  
15 fixed fast. (indicating.)

16 Q Mr. Coppola, are you telling us that the  
17 falls from both of these booms came together on one  
18 cargo hook?

19 A Yes.

20 Q Now, Mr. Coppola, where were the controls  
21 for the forward winches at the number three hatch  
22 of the South African HUGUENOT?

23 A Four forward and there are three columns  
24 like this (indicating), you use the one that is in the  
25 middle.

1 JQpa  
2 Q Did you use that one to operate both winches?

3 A Yes, sir.

4 Q What was there on that column in the center  
5 that enabled you to operate both these winches?

6 A There are two iron sticks. Metal sticks and  
7 you use these to operate the winches.

8 Q When you move these iron sticks, do you move  
9 them the same way to get the same reaction on both  
10 of them?

11 A No, it depends upon the work that you have  
12 to do. If you have to go over onto the dock, you  
13 slacken the up and down and you pull the Burton.

14 Q Mr. Coppola, we will get to this, we have  
15 to go very, very slowly.

16 You mentioned the fact that there was a  
17 stick.

18 THE COURT: He said there are two iron sticks.

19 Q These two iron sticks, where were they  
20 on this one column, was there one on either side of the  
21 column?

22 A Yes, sir.

23 Q If you took one of these sticks and you  
24 put your hand on it and you pushed it forward what  
25 reaction would you get with respect to the winch?



JQpa

Coppola-direct

42

1 JQpa  
2 A The one that I pull on, (indicating), lifts,  
3 and the other one slackens.

4 Q Mr. Coppola, let's take each winch alone  
5 because we have to explain how it works.

6 You have two sticks, one stick for each  
7 winch, is that correct?

8 A Yes.

9 Q Inviting your answer to one winch, if you  
10 push that stick forward would the line that comes from  
11 the head of the boom go down or would it pull up?

12 A You mean if I put the stick forward?

13 Q Yes.

14 A It goes down.

15 Q And if you took that same stick and you  
16 pulled it back would that line now pull up?

17 A It goes up, yes.

18 Q And you get the same reaction if you took  
19 the other stick, if you push it forward it would go  
20 down and if you pulled it back it would pull up, is  
21 that right?

22 A Yes, sir.

23 Q In order to work cargo, I believe you told  
24 me that you were operating both of these winches,  
25 isn't that right?

JQpa

A Yes, sir.

Q And you have to operate these winches in a way that you can get that cargo to move the way you want it to, isn't that so?

A The work that I have to do, that is the way I have to regulate myself.

Q On the Sunday when you were working general cargo explain to the jury how you have to move these handles to lift this cargo up from the dock, carry it across the deck and put it down into the hatch.

A I look at the gangway man. I take orders from him. When he sees that everything is in order he tells me to lower and I lower. I then bring the cargo at a height of maybe five or six feet, something like that.

Q Five or six feet from where?

A From the coaming of the ship.

Q That is above the ship's rail?

A Yes, sir. Then I put the up and down in use and I slack the Burton. When the up and down is taking the strain I slacken the Burton and then I go across and bring the cargo down into the hatch. When it's down and over the hatch I slowly lower with both of



JQpc

Coppola-direct

44

1                   JQpc                   Coppola-direct                   44  
2                   them until the cargo is down in the hatch.

3                   Q           Mr. Coppola, let's go over this again.  
4                   You have explained to a degree what happened but I want  
5                   the jury and the Court to understand exactly what  
6                   happened.

7                   I have the cargo on the pier. From your  
8                   station can you see this cargo on the pier?

9                   A           No.

10                  Q           At that particular point when you cannot see  
11                  the cargo on the pier did you use the gangway man?

12                  A           Always, yes.

13                  Q           And he tells you what to do, isn't that  
14                  so?

15                  A           Certainly. He tells me to raise, lower or  
16                  stand firm, everything.

17                  Q           Watch my hand, please. Tell me what you  
18                  have to do with each of these two sticks that you told  
19                  me about before to take this cargo and just bring it up  
20                  to where it's five feet above the coaming.

21                  A           To work and to raise, lifting with the up  
22                  and down. Excuse me, from the pier, the Burton.

23                  THE COURT: Let me put a question, if I  
24                  may. I think I am coming to an appreciation of what  
25                  he is saying.

JQpa

Coppola-direct

45

1 Mr. Coppola, the boom that you use to lift  
2 off the dock is called the Burton boom, is that right?  
3

4 THE WITNESS: Yes, sir.

5 THE COURT: That is the name of that boom?

6 THE WITNESS: The one that goes over onto  
7 the dock is called the Burton boom. Both of them are  
8 called booms. And the other one is called the up and  
9 down that goes down into the hatch.

10 THE COURT: There are two booms, each have  
11 a name and one is called Burton and one is called up and  
12 down, right?

13 THE WITNESS: Yes, but it depends upon the  
14 position of the vessel. Sometimes the vessel is  
15 moored with its bow in a different position, but the  
16 names are booms. That is what we use.

17 THE COURT: When you pick the cargo off the  
18 dock both the up and down boom and the Burton boom  
19 are fastened to that cargo, is that right?

20 THE WITNESS: Yes, sir.

21 THE COURT: And you lift the cargo up  
22 to the height above the height of the deck with  
23 the Burton boom and then between the two of them you  
24 pull it across over the hatch and then you lower it down  
25 on the up and down boom, is that right?



JQpa

Coppola-direct

46

THE WITNESS: Yes, sir.

THE COURT: Mr. Lory, go ahead.

MR. LORY: Thank you very much, your Honor.

Q Now, Mr. Coppola, when you have got this cargo five feet above the ship's rail, tell this jury what you have to do with each of these handles to carry that cargo horizontally across.

A When I have reached the point of five or six feet over the skin of the ship, the side, I put the up and down in use and when it's taking the strain properly I slacken with the burton using both of them, one raising and one swinging and that is the way it goes into the hatch.

Q Is it fair to say, Mr. Coppola, to carry this cargo horizontally across the deck, to burton it across, that you've got to use both handles?

A Yes, sir.

Q Mr. Coppola, this place where you told us that these three metal columns were, were situated aboard the South African HUCUENOT on the number three hatch, was it on the main deck, was it raised above the main deck, where was it?

A Raised up on a platform which I call

Q Was this like a house?

JQpa

Coppola-direct

47

A Yes, sir, like a house.

Q Where with respect to the square of the hatch at number three was this house located?

A Forward and normally it comes in and about almost to the center of the hatch so that where I am positioned I could see and look into the hatch.

Q Let me try it another way, Mr. Coppola.

This house that you mentioned, is that positioned on the ship between number two and number three hatch?

A Yes, sir.

Q And I believe you told us that you were working the winches at the forward end of number three hatch, is that correct?

A Yes, sir, forward.

Q And this platform, this house that you mentioned, being forward of the number three hatch, is it fair to say that at your winch station where these columns were that you would be looking towards the back of the vessel?

A Yes, sir.

Q How far away from the edge, the aft edge of this house that you mentioned were the columns that you told us about?



JQpa

Coppola-direct

48

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A Away from what?

3

Q From the edge of the platform that was

4

closest to the forward end of number three hatch.

5

A You mean that I could look down into the

6

hatch?

7

Q Before we get to that, just tell me

8

where the columns were with respect to the edge.

9

A At the edge of the hatch?

10

Q Yes.

11

A About this distance, (indicating), and then

12

you have the columns.

13

Q When you operated these winches --

14

MR. COHEN: May we indicate for the

15

record what that is?

16

THE COURT: What is the indication?

17

A foot and a half, something like that.

18

MR. LORY: Thank you, your Honor.

19

Q And your position to operate these winches,

20

was it in front of this column or behind this column

21

facing aft?

22

Was this column in front of you when you

23

were operating the winches?

24

A Yes.

25

Q From that position could you see down into

JQpa

Coppola-direct

49

number three hatch?

A Yes.

Q Would it be fair to say, Mr. Coppola, that you only used the gangway man when you cannot see the draft?

A Whatever part I can't see he then gives me the signal.

MR. KAIN: May I ask your Honor again that counsel be directed not to lead. We are getting down pretty close to this and he is being asked leading questions only.

THE COURT: Mr. Lory, if you will, avoid leading questions at this point.

MR. LORY: I agree, your Honor.

Q Mr. Coppola, there came a time on this Sunday that you started to bring motor vehicles aboard this vessel, isn't that so?

A Yes.

Q How many motor cars did you have to bring aboard?

A Exactly I don't remember, about five or six but I don't remember.

Q What time of day was this?

A It was in the evening. When we started to load the cars it was about 7:00, 7:15, 7:30. Exactly I do



JQpa

not remember.

Q Had the sun yet set?

A Yes.

Q Were the ship's lights on?

A Yes, sir.

Q Did you bring the first car aboard without any problem?

A No, we had to call the officer because one of the controls was hard and the officer came and with a little pumping they put in oil.

Q I will get to this.

What time of day was this that you made a complaint about the winch?

A About 11:00, 11:30. I don't remember exactly but regardless, it was before noontime.

Q This was on Sunday?

A Yes.

Q I believe you told us that you also worked on the Saturday at the number three hatch at the forward winches, is that correct?

THE COURT: Just a minute if I may. I am a little confused because this incident of putting some oil on the control at noontime, was this at noontime or after the cars started to come aboard?

1 JQpa  
2 MR. LORY: I think the witness is confused.  
3 I am trying to bring him back and that is why I asked the  
4 hour.

5 THE COURT: Ask him when the incident occurred  
6 involving the oil.

7 Q Mr. Coppola, when for the first time during  
8 this voyage on the days that you worked aboard the  
9 South African Huguenot did you first experience any  
10 problem with the forward winches at the number three  
11 hatch?

12 THE COURT: Mr. Lory, let's just put my  
13 question for a minute.

14 Mr. Coppola, you have told us about an  
15 occasion where an officer put oil on the winch.

16 THE WITNESS: Yes.

17 THE COURT: When was that, what time of the  
18 day?

19 THE WITNESS: About 11:00 or 11:30, something  
20 like that.

21 THE COURT: In the morning?

22 THE WITNESS: Yes, sir.

23 THE COURT: Go ahead.

24 Q Was there any other time while you were  
25 working aboard the South African Huguenot that you had



1 JQpa

2 occasion to call an officer with respect to the forward  
3 winches at the number three hatch?

4 A When, do you mean the same day?

5 Q The same day, the day before.

6 A The same day, yes.

7 Q How many times did the officer come on  
8 Sunday?

9 A On Sunday we called the officer once at 11:30.

10 Q Did you call the officer on Saturday?

11 A I believe not.

12 Q When the officer came at about 11:30, what  
13 did the officer do?

14 A He brings with him some kind of a little  
15 pump which presses and lets out oil and he places it into  
16 these columns on the winch.

17 Q Does he use the pump on this apparatus?

18 A Yes, to pump the oil inside.

19 Q There is a connection between this  
20 apparatus and it connects someplace to that steel column  
21 that you told us about?

22 A Yes, this is the column, (indicating), the  
23 controls are on both sides of that, (indicating), and on  
24 top you have a screw which you open and close, he pumps  
25 the oil at that point.

JQpa

Coppola-direct

53

Q And did he do this on the Sunday in your presence? That is, at 11:30?

A Yes.

Q Before you called the officer what did you notice about the forward winch controls at the number three hatch?

A I saw that it was going hard. Then when I moved it the winch moved very little. I then had to call and I became aware that it wasn't running right.

Q Let's go now to 7:00, 7:15 in the evening when you are loading the cars.

Mr. Coppola, were you at the winch controls at the time that Mr. Iannuzzi suffered an accident?

A Yes, sir.

Q What were you doing just before the accident to Mr. Iannuzzi?

A The gangway man had given me an order to go over onto the dock.

Q Let's stop there for a moment.

At this particular time on the right side of the vessel, which would be the side closest to the pier, was there any cargo on that deck?

A Yes.

Q Do you remember what it was, what was on the



JQpa

Coppola-direct

51

1 JQpa  
2 deck?

3 A There was a tractor there, machinery of  
4 some kind and drums.

5 Q How high above the ship's rail or the coaming  
6 did this tractor extend?

7 A From the deck of the ship the tractor could  
8 be maybe a height of six feet or five feet. It's a  
9 steel tractor.

10 Q Was the height of the tractor more or less  
11 than the height of the coaming on the hatch?

12 A No, it was over the coaming of the hatch,  
13 maybe two feet, something like that.

14 Q Do you remember how high the coaming of  
15 the hatch was at number three hatch aboard the  
16 South African HUGUENOT?

17 A It reaches up to here to me. (Indicating.)

18 Q Stand up, please, so the jury can see  
19 how high it was.

20 A Right up to here.

21 Q Indicating at chest level, Mr. Kain? What  
22 would you estimate, four, four and a half feet?

23 MR. KAIN: It depends on his height.

24 Q How tall are you?

25 A I am about 5'4", something like that.

1 JQpa  
2 MR. LORY: Four feet?

3 MR. KAIN: Approximately, that is what he is  
4 indicating.

5 Q Sit down, please. Thank you.

6 All right, Mr. Coppola, tell us, just before  
7 the accident you were going to bring a car aboard?

8 A Yes.

9 Q And this car would have to pass over this  
10 deck cargo?

11 A Yes. Not exactly over it. It would pass  
12 maybe halfway. In other words, you had to watch out  
13 for the tractor.

14 Q At the time Mr. Iannuzzi had his accident  
15 were you at the winch controls?

16 A Yes, sir.

17 Q And at that particular time were you bringing  
18 a car aboard the vessel?

19 A Yes.

20 Q Was this the first car that you had brought  
21 aboard of the five or six that you mentioned or the  
22 second or whatever, what was it?

23 A I don't remember exactly. I don't remember  
24 whether this was the first or not but I think that it was  
25 more than the first because there were already others aboard.



JQpa

Coppola-direct

56

1 JQpa  
2 Q Did you take a signal from the gangway man  
3 to lift --

4 THE COURT: Why don't you just ask him what  
5 happened and let him go from there. I think that is  
6 appropriate at this time.

7 MR. LORY: It's rather at a critical stage  
8 and I will agree, your Honor.

9 THE COURT: Tell us what happened.

10 THE WITNESS: I got an order from the  
11 gangway man to raise this car. When the car went up  
12 maybe five feet, six feet from the coaming, because  
13 I had to watch the tractor, the car having been raised  
14 at a height of five or six feet above the coaming of  
15 the ship, I put the up and down in force and I slackened  
16 the Burton and lifting with the up and down and slackening  
17 with the Burton --

18 MR. COHEN: Can we have a short recess, your  
19 Honor?

20 THE COURT: Yes, by all means.

21 Let's take our mid-morning recess, ladies and  
22 gentlemen and you may take that and retire to the jury  
23 room if you will, all of you.

24 (Recess.)

25 \*

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JQpa

Coppola-direct

57

(In open court, jury present.)

Q Mr. Coppola, just before the recess you were about to tell us exactly what happened, what you did with your winches at the time that you were bringing the car aboard the vessel when the accident happened. Will you start again please.

A At that time I was at the winch. I received an order from the gangway man to go over onto the dock because we were going to pick up a car. I received the order saying that the car was all hooked up. I raised the car five or six feet from the coaming which was free of the tractor. I took the strain on the up and down and I slackened on the Burton. But the Burton was slackened altogether, and the up and down didn't quite get to do it and the car went like this, (indicating). When I got in the middle of the hatch I stopped because I heard men who were yelling and thus I saw Mr. Mario Iannuzzi down in the hatch. The car was firm in the hatch and then slowly in order to avoid anything further happening to the men I took the car over onto the dock. The gangway man was giving me the signal so that I could return the car back onto the dock. They then took the hook off of the car and then I don't know whether they took a pallet



JQpa

1 or they took a basket and we went back into the hatch  
2 in order to pick up Mr. Mario Iannuzzi. And the men who  
3 were down in the hatch picked up Mr. Iannuzzi and they  
4 put him on a pallet and slowly, slowly once again  
5 we went back onto the dock. That is all.  
6

7 THE COURT: Mr. Lory, just one thing here.  
8 This car, Mr. Coppola, is this on a flat pallet of some  
9 kind?

10 THE WITNESS: No, there are nylon straps  
11 which are passed underneath.

12 THE COURT: And these are gathered together  
13 on the top of the car in some kind of a ring?

14 THE WITNESS: Yes, sir, which is hooked  
15 on so that the car stands in this position.

16 THE COURT: Go ahead, sir.

17 Q Mr. Coppola, you told us that at the time  
18 that you slackened the Burton something happened. Will  
19 you try and explain this to us a little bit more? You  
20 have the car at this particular point, as I understand  
21 it, raised up over the dock about five foot or rather  
22 above the rail of the ship about five feet, and would  
23 you tell us exactly what you did with the winch controls  
24 and what response did you receive?

25 A You mean to take the car on board the vessel

1 JQpa  
2 the first time?

3 Q Yes.

4 THE COURT: No, at the time of the accident.

5 A When I raised the car at a height of five  
6 or six feet from the railing I took the strain on the  
7 up and down in order to go down into the hatch and then  
8 slowly I slackened the Burton. But the Burton didn't  
9 slacken the way I wanted it. It slackened all at once.  
10 And then the up and down, the control, I turned it down  
11 completely. (Indicating.) But it wasn't able to do it because  
12 the Burton slackened all together and it came over like  
13 this. (Indicating.)

14 Q In a downward arc.

15 Mr. Coppola, what type of winches were  
16 these aboard the HUGUENOT?

17 A Pump winches, air winches.

18 Q Were they hydrolic winches?

19 A Yes.

20 MR. KAIN: If your Honor please, I object  
21 to counsel leading this witness. I think I have been  
22 more than patient but we are continuously leading  
23 the witness and I think we reach a point where he  
24 ought to testify for himself.

25 The witness answered that they were air winches



1 JQpa

2 and the next question was were they hydrolic winches.

3 THE COURT: The statements are now in the  
4 record. I will let them stand but, Mr. Lory, will you  
5 please not lead in the future.

6 Q Did you ever operate this type of winch  
7 before this particular Sunday?

8 A Yes.

9 Q Did you operate this type of winch one time  
10 or many times?

11 A Y ou mean this type of a winch?

12 Q Yes.

13 A Many times because in our job you always  
14 get them. There are quite a few of them.

15 Q Can you tell me how many years experience  
16 you had operating this type of winch before November 24th  
17 of 1968?

18 A Ten or twelve years, something like that.

19 Q Mr. Coppola, let's go back to the time that  
20 you said that you had called the officer, which was  
21 about 11:30, I think you told us, on this particular  
22 day.

23 Did you see anything at the winch controls  
24 at that particular time?

25 A These controls many time don't work right

1 JQpa

2 and oftentimes they are hard.

3 MR. COHEN: I move to strike that as non-  
4 responsive.

5 THE COURT: I will strike the answer. I  
6 grant the motion to strike the answer.

7 Q At the time that you called the officer --

8 THE COURT: Ladies and gentlemen of the jury,  
9 when I have stricken an answer it is as if it had never  
10 been given and you must utterly disregard it.

11 Q Mr. Coppola, I will put the question to  
12 you again.

13 At the time that you called the officer to  
14 come to the number three forward deckhouse where your  
15 station was at the winches, can you tell me if you saw  
16 anything at the control stanchion?

17 A Yes, there was some oil which was coming  
18 out from the top where the oil is put into.

19 Q Did you see that condition on the day  
20 before?

21 A No.

22 Q Mr. Coppola, do you remember whether at  
23 any time before that particular Sunday during the  
24 course of this voyage, whether you had called anyone to  
25 do anything to this winch other than the Sunday that you



JQpa

Coppola-direct

62

1 mentioned?

2  
3 MR. KAIN: If your Honor please, the  
4 witness has already answered that question.

5 THE COURT: He has and I will sustain the  
6 objection.

7 Q Mr. Coppola, do you remember meeting the  
8 lawyers in this case in this courthouse back in 1971,  
9 October 1971 at which time the lawyers put questions to  
10 you and you gave answers?

11 MR. COHEN: I think this is improper. This  
12 is his own witness, if your Honor please.

13 THE COURT: I am curious as to where it's  
14 going myself.

15 MR. KAIN: It hasn't reached the improper  
16 point yet but I object also.

17 THE COURT: I am curious as to whether this  
18 is appropriate.

19 MR. LORY: May I state my intent?

20 THE COURT: Come to the side bar.

21 (At the side bar.)

22 THE COURT: Where are you going?

23 MR. LORY: The witness has been deposed.

24 He had made a statement of earlier complaints. I  
25 propose to, once I set the foundation, to have Mr. Amarante

JQPR

Coppola-direct

63

1  
2 read in his testimony and ask him whether this  
3 refreshes his recollection. As I understand the rules,  
4 the transcript of a deposition can be used by any party  
5 for any purpose and this is what I intend.

6 THE COURT: I understand your point now and  
7 I thought that is where you were going. As I understand  
8 the present state of the record, he had the one complaint  
9 at 11:30 on Sunday and he had no other complaints.

10 MR. KAIN: And the witness has not  
11 stated he has a failure of recollection. He can't use  
12 the deposition to rehabilitate the witness.

13 MR. COHEN: This deposition was taken of  
14 this gentleman as a witness and not a party. Mr. Lory's  
15 concept of when he can use a deposition is perfectly true  
16 when it relates to a party but this is his witness and  
17 all that deposition represents in effect is a signed  
18 statement and he can't go about using his own man's  
19 signed statement on it.

20 THE COURT: What I would permit Mr. Lory  
21 to do, I will not permit the deposition to be read to  
22 him in the courtroom. Because then the jury has heard  
23 it. But if you ask him or you want to establish in the  
24 record that he has no recollection of any prior complaints  
25 about this winch --



1 JQpa  
2 MR. KAIN: The witness already answered that.

3 THE COURT: Given where we are going at this  
4 point I will let him establish that a second time. You  
5 may then have the interpreter and the witness step back  
6 out here into the corridor and counsel and the Court  
7 will convene there and you can have it read to him at  
8 that point and you can then come back and ask whether  
9 the consideration that he has made of this examination  
10 before trial refreshes his recollection as to any prior  
11 testimony.

12 MR. LORY: That is my intention.

13 THE COURT: I won't do it in the jury's  
14 presence. You are entitled to refresh the witness'  
15 recollection with anything. We have a statement here  
16 in English that he cannot read and he is entitled to  
17 know what is in it.

18 MR. KAIN: The witness has not said he  
19 needs anything to refresh his recollection.

20 THE COURT: That is a condition precedent,  
21 that he has no such recollection and if he states  
22 that I think then it is appropriate to endeavor to  
23 refresh his recollection. But I think the jury must  
24 be aware of the fact that he has stated he has had  
25 none before you can go into efforts to refresh it.

1 JQpa  
2 MR. COHEN: Speaking just for myself, if he  
3 is to be permitted to attempt to refresh his recollection  
4 in that fashion I certainly would assume to have it  
5 done in front of the jury. I don't think it's proper  
6 to do it outside.

7 THE COURT: Normally the jury does not see  
8 what is being used. The witness is given a statement  
9 and he is asked to read it to himself and then the  
10 statement is taken from him and he is asked whether  
11 the statement refreshes his recollection.

12 MR. COHEN: I see your Honor's point.

13 THE COURT: We have to overcome the fact  
14 that this statement is in English and he can't read it.

15 MR. COHEN: But normally the jury sees that  
16 he is given a statement and asked if it refreshes his  
17 recollection.

18 THE COURT: I see your point. We can  
19 establish on the record that he has had his prior  
20 testimony read to him in translation and he is being  
21 asked about it. I think your point is well taken.

22 MR. COHEN: If we reach that point.

23 MR. KAIN: May I note my objection to the  
24 procedure on the record at this time, the procedure being  
25 followed.



JQpa

Coppola-direct

66

1 THE COURT: Yes.

2 (In open court.)

3 Q Mr. Coppola, you told us before that on the  
4 Sunday, the day of the accident, about 11:30, you had  
5 made a complaint to an officer of the ship regarding  
6 the condition of the winches at the forward end of  
7 number three hatch. Do you remember at any time earlier  
8 making any other complaint regarding these winches?  
9 Answer that please yes or no.  
10

11 A No.

12 MR. LORY: May I?

13 THE COURT: Yes. We will adopt the  
14 procedure that we have discussed.

15 Ladies and gentlemen, we are going to have  
16 certain testimony read to this witness out of  
17 your presence and then there will be questions put to him  
18 on the basis of that reading. If you would just stay  
19 in place for a minute please.

20 (Conference in the robing room.)

21 THE COURT: What are you going to have read,  
22 page 45, line 18 through page 47, line 19?

23 (Testimony read to the witness at this  
24 point by the interpreter.)

25 THE COURT: Mr. Lory, you may phrase your

JQpa

Coppola-direct

67

question this way: You have had certain of your testimony read to you and does that testimony refresh your recollection, how did you put it?

MR. LORY: Whether there were any other complaints.

THE COURT: Does that refresh your recollection as to whether there were any other earlier complaints?

MR. KAIN: May I note an objection on the basis of the answers to the question on page 47, the answer which starts at line 7 which the witness says he cannot remember and he also states but I do not, that he came one day at least for one reason or another. I submit on the basis of that original testimony --

MR. LORY: He came once a day.

THE COURT: I note your objection and the question is whether it refreshes his recollection. Either it does or doesn't. If you want to cross examine using that you may do so.

MR. COHEN: I object to this procedure because this witness has testified that he made only one complaint and that was at 11:30 on the Sunday that the accident happened and there were no others. Mr. Lory is now trying to do in the guise of something else to impeach his own witness. I think it's highly improper.



JQpa

Coppola-direct

68

1 THE COURT: The witness has stated that he  
2 did not remember having any prior complaints. That was  
3 the question of Mr. Lory, "Do you remember having any,"  
4 and he said, "I do not remember."

5 MR. COHEN: Before that he said that there  
6 were no prior complaints and obviously it follows if  
7 there were none before he couldn't remember giving any.

8 THE COURT: I think that is a question you  
9 can argue to the jury on credibility.

10 Let's go forward.

11 (In open court.)

12 Q Mr. Coppola, in the absence of the jury  
13 you have had certain testimony read to you. Does that  
14 testimony, the testimony that was read to you, does  
15 that refresh your recollection as to whether or not  
16 you made any earlier complaints?

17 THE COURT: Either it refreshes his recollection  
18 or it does not.

19 THE WITNESS: What I am saying is that  
20 from the time that it happened I didn't say anything  
21 other than whatever is written there.

22 THE COURT: Could you ask him whether it  
23 refreshes his recollection or it does not?

24 THE WITNESS: No, sir.  
25

1 JQpa  
2 THE WITNESS: No, sir.

3 THE COURT: Let's go forward.

4 MR. LORY: May I put one question to him,  
5 stating the foundation as to his prior testimony --

6 THE COURT: I would think not. I think  
7 we have gone along way in that regard and I will sustain  
8 the objection.

9 MR. LORY: Your witness, Mr. Kain.

10 CROSS EXAMINATION

11 BY MR. KAIN:

12 Q Mr. Coppola, you and Mario Iannuzzi grew  
13 up as boys together in Italy, didn't you?

14 A Yes, we are countrymen. We come from  
15 the same town and we knew each other.

16 Q And you have known each other or you knew  
17 Mr. Iannuzzi almost from the time of your birth, isn't  
18 that correct, from the time you were a very small boy  
19 you knew each other, didn't you?

20 A Yes, sir.

21 Q And you knew Mrs. Iannuzzi before this  
22 accident, is that correct?

23 A Yes, sir.

24 Q Have you yourself been represented by  
25 Mr. Gritz's firm at any time?



1 Coppola

2 A About what?

3 Q Have they ever been your lawyers in connection  
4 with any complaints or lawsuits or any type of legal  
5 work?

6 A You mean if they said anything to me?

7 Q I am asking you, have you ever gone to them  
8 with a legal problem to take a case of yours, to take  
9 a claim of yours, to do any legal work for you?

10 A No.

11 MR. KAIN: Would your Honor excuse me  
12 for just a moment?

13 THE COURT: By all means.

14 MR. KAIN: May I mark this photograph for  
15 identification, if your please.

16 THE COURT: You may.

17 (Defendant's Exhibit A marked for  
18 identification.)

19 Q Mr. Coppola, will you look at this  
20 photograph which is Defendant's Exhibit A for  
21 identification and tell me if the handles shown in the  
22 foreground of that photograph are the type of winch  
23 control handles you were using at the time of Mr. Iannuzzi's  
24 accident?

25 A These are the controls.

1 JQca. Coppola-cross 71  
2 Q That is the controls that you were using on  
3 that day?

4 A Yes, sir.

5 Q And, Mr. Coppola, are these winch controls  
6 set on top of some kind of pedestals or bases?

7 A Yes.

8 MR. KAIN: I ask that this photograph be  
9 marked for identification, please.

10 MR. COHEN: Before we do that, what are  
11 we going to do with the first photograph?

12 THE COURT: That is Mr. Kain's province.

13 MR. COHEN: It gets a little confusing.

14 THE COURT: This is Mr. Kain's province.

15 MR. KAIN: I yield to counsel's suggestion.  
16 I offer Defendant's Exhibit A for identification in  
17 evidence.

18 THE COURT: Any objection?

19 MR. LORY: At this point I don't think  
20 there is a proper foundation for it, as to whether  
21 this is this vessel or another vessel. He merely said  
22 that these controls are similar to the ones that he used.

23 THE COURT: Mr. Kain, you better lay a  
24 foundation.

25 MR. KAIN: The witness has stated, if your



JQpa

Honor please, that the foreground of this picture shows the type of winch control handles that he was using on that day. I submit that is true. I was trying to accelerate here. These pictures have all beenmarked for identification and identified as photographs of this vessel as it existed on the day of this accident in the testimony of the third officer.

THE COURT: Would you three gentlemen please come up to the side bar.

(At the side bar.)

THE COURT: Are you contending these are not the pictures? If there is no dispute, why raise that kind of issue? You are entitled to raise a legal objection but there is no question but this is the vessel and you have the pictures so why need we take time for laying a foundation?

MR. LORY: It was just my impression, your Honor, that at this particular point whether they are marked for identification or marked in evidence subject to further connection was of little import. If your Honor prefers they be marked in evidence at this particular point --

MR. KAIN: May I state --

THE COURT: I will let that picture in at this

1 JQpa  
2 point for the purpose of showing the type of controls.  
3 He already laid that foundation but if this is a picture  
4 of that vessel and you don't dispute it why do we argue  
5 about it?

6 MR. KAIN: In the interest of saving time  
7 and since we will be using pictures, with your Honor's  
8 permission if Mr. Lory insists I will be glad, with  
9 your Honor's permission, to read in the third officer's  
10 testimony in which he identified each and every one of  
11 these pictures. They have all been marked for  
12 identification and I think that would be sufficient.

13 THE COURT: I am confident it would. I am  
14 asking Mr. Lory what the basis of the objection is.

15 MR. LORY: I just thought on the record it  
16 was premature. At this particular point it's of  
17 little significance whether they are in evidence or  
18 marked for identification. If your Honor prefers to  
19 have them in evidence for the purposes of the record  
20 I withdraw my objection.

21 THE COURT: Fine.

22 (In open court.)

23 THE COURT: There being no objection to  
24 Defendant's Exhibit A, it may be received.

25 (Defendant's Exhibit A received in evidence.)



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Q Mr. Coppola, will you look at --

MR. COHEN: It seems to me we lost the value unless we show the picture to the jury.

MR. KAIN: If your Honor please, I would like to show the two exhibits since one represents the top portion and the other the bottom portion.

MR. COHEN: I withdraw my objection.

Q Mr. Coppola, will you look at the photograph which is in front of you, Defendant's Exhibit A, and tell me if the winch control handles shown in the photograph, in the foreground of that photograph, are placed on a pedestal or were placed on a pedestal aboard the HUGUENOT on November 24, 1968?

A The column is on a base, yes. The controls are at the column as they are indicated here.

Q Now, Mr. Coppola, will you look at Defendant's Exhibit B for identification and tell me if the base or pedestals as shown in that photograph are the type of base or pedestals on which the controls were mounted?

A Yes, like this, just the way they are now.

MR. KAIN: I offer it in evidence, your Honor.

THE COURT: It may be received.

JQpa

Coppola-cross

75

(Defendant's Exhibit B received in evidence.)

Q Mr. Coppola, looking at the two photographs, Defendant's Exhibits A and B in front of you, does the photograph which is Defendant's Exhibit A show the upper part where the control handles are and the photograph which is Defendant's Exhibit B show the bottom half of the base of the pedestal?

A Here, indicating on Exhibit A, you see only the columns with the controls. Here, indicating on Exhibit B, you see the base, the steel foundation.

MR. KAIN: May I show the photographs to the jury?

MR. LORY: May we have a side bar before he does?

(At the side bar.)

MR. LORY: I realize the pictures are in evidence but I think Mr. Kain will concede that they were taken at sometime subsequent to the occurrence and they do not show other than the physical aspects of the vessel, the conditions present aboard the vessel at the time of the accident. In that vane, I would request an instruction from the Court to the jury of



1 JQpa  
2 that particular fact.

3 THE COURT: Sure.

4 MR. KAIN: I have no objection to that. I  
5 only offered it so the jury could understand what we  
6 were talking about.

7 THE COURT: Okay.

8 (In open court.)

9 THE COURT: Ladies and gentlemen, you are  
10 going to be given to look at the two pictures marked  
11 in evidence, Exhibits A and B on behalf of the  
12 defendant. I want to say to you in connection with  
13 those pictures that it is conceded that they were  
14 taken at some point in time subsequent to the date of  
15 the claimed accident and, therefore, they are being  
16 shown to you for the purpose of showing you the  
17 physical location of things aboard the vessel, such  
18 as where the hatch is, where the winches are, where  
19 the booms are and so forth. They do not purport to  
20 represent the condition of the vessel at the very  
21 date on which this accident is claimed to have  
22 occurred.

23 Mr. Kain?

24 MR. KAIN: May I, with the consent of counsel,  
25 superimpose A above B because I think it's set forth

JQpa

Coppola-cross

77

the way it's done.

MR. LORY: No objection.

MR. KAIN: May I have this marked for identification.

(Defendant's Exhibit C marked for identification.)

THE COURT: Have you others that are going to be marked, Mr. Kain?

MR. KAIN: I have at some future time --

THE COURT: Give them to Mr. Dorsa at some point and he can mark them for you in advance.

MR. KAIN: Yes, sir.

Q Mr. Cappola, will you look at that photograph which is Defendant's Exhibit C for identification and will you tell me whether that photograph shows the control station for these winches which you were operating on November 24, 1968?

I direct your attention specifically to the top of the housing between number two and three hatches as shown thereon.

A Right here on the controls.

Q And those are the controls which you were operating, sir, the ones you pointed to?

THE COURT: Do you want to mark those



JQpa

Coppola-cross

78

with a marking pencil?

THE WITNESS: They appear to be.

Q Will you place a C with that marking pencil on Defendant's Exhibit C at the point where these winch controls are located in those photographs? Will you put it to one side rather than putting it on the controls. You can, if you wish, point an arrow to the controls.

A Yes, sir.

MR. KAIN: I offer it in evidence.

MR. LORY: No objection.

(Defendant's Exhibit C received in evidence.)

Q Mr. Cappola, will you look at Defendant's Exhibit C in evidence, the photograph which is before you and will you tell me whether the foreground of that photograph shows the hatch square of number three hatch of the HUGUENOT as it existed on November 24, 1968, or I should say a portion of the hatch square as it existed?

A Yes.

Q Will you, with the pencil that you used before, sir, put an H at some portion in that hatch square?

A Yes.

JQpa

Coppola-cross

79

1 JQpa  
2 MR. KAIN: May I show it to the jury,  
3 your Honor?

4 THE COURT: You may.

5 Q Mr. Coppola, on the day of this  
6 accident by whom were you employed?

7 A ITO.

8 Q And were all the longshoremen in  
9 your gang employees of ITO?

10 A Yes, sir.

11 Q Were you a regular member of this gang?  
12 Did you work with this gang regularly?

13 A Yes, sir.

14 Q If I understand your testimony correctly  
15 on November 24, 1968 you were a deck man in that  
16 gang, is that correct?

17 A Yes, sir.

18 Q At that time on November 24, 1968,  
19 approximately how long had you been working as a  
20 deck man?

21 A In 1955 I went into that gang to work and  
22 I remained in that gang.

23 Q When you went into this gang in 1955 did  
24 you work at that time as a deck man or did you start  
25 work as a hold man?



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2

A Hold man.

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Q Could you tell his Honor and the ladies and gentlemen of the jury what is the type of work that a hold man does?

6

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A Down in the hatch when cargo comes down into the hatch, general cargo, you take it off and you stow it. As soon as the draft comes down into the hatch you have to work to put it away.

10

11

12

13

Q After you started work in 1955 as a hold man with this gang how long thereafter did you continue to work as a hold man before you took some other type of work?

14

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A Exactly I do not remember but I think that I worked in the gang for a period of maybe five, six or seven years in that job and after that I went to work as a deck man. One of the members of the deck gang retired, went on pension and I took his place.

20

21

22

Q As a deck man did you work at all of the deck man's jobs? Did you work, for example, as a gangway man?

23

24

25

A Yes, when the opportunity arises I work as a gangway man. I stay near the winches. I do everything.

1 JQpa  
2 Q And a gangway man is just a signal man,  
3 the man who gives the signal, is that right?

4 A He gives signals and he also comes aboard  
5 the vessel, looks at everything, looks at the way the  
6 things are to be done, the rigging. He looks at the  
7 work.

8 Q Who is the boss of the gang? Is that the  
9 gangway man?

10 A No, the hatch boss.

11 Q And did this gang on which you were working  
12 on on November 24, 1968 have a hatch boss?

13 A Yes.

14 Q Was he an employee of ITO?

15 A Yes, sir.

16 Q If you know, were the ship's foremen and the  
17 assistant ship's foremen also employees of ITO?

18 A At what time?

19 Q On the day of this accident.

20 A Yes.

21 Q When you were working aboard the HUGUENOT  
22 in November of 1968 who did you get your orders from?  
23 Who gave you your orders?

24 A The boss would give the orders to the hatch  
25 boss. The hatch boss would then talk to us, talk to the



1 JQpa gangway men and then we would do the work.

2  
3 Q While you were working aboard that ship did  
4 you yourself at any time get any orders from the  
5 ship's officers?

6 A Order from an officer, no.

7 Q Could you tell me, if you recall, how many  
8 days before this accident your gang had worked aboard  
9 this ship?

10 A Exactly I do not remember but I think it  
11 was a few days.

12 Q And do you remember whether the longshoremen  
13 discharged any cargo or whether it was just the loading  
14 of cargo that your gang was doing in November 1968?

15 A Only loading..

16 Q On the day of this accident, November 24,  
17 1968, for how long a period of time prior to that  
18 date had you been operating hydrolic winches?

19 A How many times?

20 Q How long a period of time, five years,  
21 ten years, how long?

22 A About ten or twelve years. Exactly I do  
23 not remember.

24 Q In your experience as a winch operator are  
25 hydrolic winches in common use aboard ships that work cargo

JQpa

Coppola-cross

83

1 to discharge and load in New York Harbor?

2 A There are a lot of ships. It depends  
3 on the ships. Some of them are electric, some are not.  
4 It depends on the construction of the ship. I can't  
5 remember now.  
6

7 Q Let me put it to you this way then,  
8 Mr. Coppola: Aren't electric winches much more common  
9 than hydrolic winches on the ships on which you worked?

10 A I worked on all of them. I worked on electric  
11 winches; hydrolic winches and those by steam.

12 Q I understand that but if you can, if you  
13 recall, will you tell me whether most of the ships  
14 on which you worked and which you have worked in past  
15 years as a longshoreman had electric winches rather than  
16 hydrolic winches?

17 A Electric winches I think there are more.  
18 As far as I am concerned these other hydrolic winches  
19 I think were put together later on.

20 Q Could you approximate for me, just roughly,  
21 I know you kept no records, about how many times a  
22 month you worked on a ship that has hydrolic winches?

23 A At pier 6 we had two lines, the South African  
24 and Japanese. There was a month that we would be working  
25



JQpa

Coppola-cross

84

1 for a month, two, three months we would be working  
2 with one line and for a month, two, three months we  
3 would be working with another lines. The Japanese line  
4 has electric winches and occasionally they have a  
5 steam winch. Not steam winch, a hydrolic winch, Japanese.  
6 Electric and hydrolic.  
7

8 Q Mr. Coppola, I would like you, if you can,  
9 to give me an approximation of just about how many  
10 times a month you have worked on ships with  
11 hydrolic winches, if you can give it to us.

12 A In a month perhaps I would work on them  
13 twice, two or three times.

14 Q I believe you told Mr. Lory on your direct  
15 examination that you had, prior to the day of  
16 this accident, worked aboard the HUGUENOT, is that  
17 correct?

18 A Yes.

19 Q Was that on a number of occasions that you  
20 had worked on this ship before this accident?

21 A Yes.

22 Q And on these occasions did you work as a  
23 winch operator?

24 A Yes.

25 Q On the day of this accident were you familiar

1 JQpa  
2 with the hydrolic winches aboard the HUGUENOT?

3 A Yes.

4 Q Did you know how they operated?

5 A Yes, by air.

6 Q Do you know, Mr. Coppola, whether the controls  
7 that you have testified that you were working at the time  
8 of this accident, do you know whether these were winch  
9 controls or controls for a remote control system?

10 A I don't know exactly when this ship was  
11 constructed but I believe that on this ship these  
12 controls were the controls of their winches in  
13 another hatch other than this hatch. One of the  
14 controls broke down previous to this occasion.

15 MR. KAIN: If your Honor please, I move  
16 to strike the answer as not responsive and instruct  
17 the jury to disregard it.

18 THE COURT: Strike the answer and the jury  
19 will disregard it.

20 Q Mr. Coppola, I would like you to answer this  
21 question yes or no.

22 Do you have any knowledge of the manner in  
23 which these hydrolic winches operated, what made them  
24 work, how they worked, the principles on which they  
25 worked?



1 JQpa  
2 A I am not a mechanic. I know they work  
3 by air and that is all.

4 Q Do they work by air or do they work by  
5 hydrolic fluid, Mr. Coppola?

6 A I don't know.

7 Q You also operate electric winches on many  
8 occasions, do you not?

9 A Yes.

10 Q Would you tell me whether the  
11 electric winches which you have operated and which you  
12 now operate, are these winches also fitted with control  
13 handles?

14 A Yes, there are.

15 Q And on these electric winches which you have  
16 operated and now operate, are there various hoisting  
17 and lowering speeds on these winch controls, the  
18 master controls for the electric winches?

19 A Yes, there are pints, first, second.

20 Q And are there approximately four or five  
21 different points or speeds in the lowering position and  
22 in the hoisting position on these electric  
23 winches?

24 A Yes.

25 Q And when you operate these electric winches

1 JQpa  
2 when you move these control handles you can tell when  
3 you reach the first point or the slowest point in either  
4 lowering or hoisting, is that not so?

5 A Yes.

6 Q And then you could also tell as you increase  
7 the speed and hoist by moving it to the second  
8 position or the third position or the fourth or the  
9 fifth, isn't that correct?

10 A Yes, the first point is a slower one. The  
11 next one is a faster one, the third is a faster one, that  
12 way.

13 Q On the hydrolic winches that you were  
14 operating aboard the South African HUGUENOT on  
15 November 24, 1968, are there any control positions on  
16 those winches?

17 A This type of a winch does not have points.  
18 You have to regulate yourself.

19 Q And could you tell me how you regulated  
20 the speed?

21 A You would raise the draft when you have  
22 to bring the cargo across onto the ship. These are  
23 the two controls. One is the Burton and the other is  
24 the up and down. You put the strain on the  
25 up and down and you slacken the Burton slowly, very



JQpa

Coppola-cross

88

1 slowly. One slacks and one pulls up. That is the way  
2 you bring the draft down into the hatch.  
3

4 Q Isn't it true, Mr. Coppola, that in  
5 operating the hydrolic winches aboard the South African  
6 HUGUENOT you don't look at your handles or your  
7 control points, you move your handles and you watch  
8 the speed of the draft by eye, is that correct?

9 A Yes, sir, you watch the draft.

10 Q How about the braking system on this particular  
11 winch? I am referring now to the hydrolic system on  
12 the winches you were operating aboard the South African  
13 HUGUENOT on November 24, 1968. Were there any brakes  
14 for these winches?

15 A When you want to stop you put the controls  
16 in the center, (indicating) and that is the way you stop  
17 it.

18 Q Was there any other method for stopping  
19 the winches which you were operating on the day of this  
20 accident other than the controls which you say you put  
21 in the center of the control handle?

22 A Yes, down at the base as indicated in the  
23 photograph there are brakes. Then there is something  
24 else. In an emergency you have a red button but  
25 this button at that time was on the other side of the hatch.

1  
2 Q Mr. Coppola, will you look at Defendant's  
3 Exhibit B in evidence and tell me whether those foot  
4 brakes that you refer to at the bottom and pedestal  
5 are shown in that photograph?

6 A Yes.

7 Q Will you with the red pencil that you used  
8 before put a B next to the brakes as shown on that  
9 photograph?

10 A Yes.

11 THE COURT: Would this be a good time to  
12 break for lunch or do you have just a handful of  
13 questions, perhaps more in this area?

14 MR. KAIN: I have more than a handful.

15 THE COURT: Ladies and gentlemen, we will  
16 break for lunch and resume at 2:00. During the  
17 luncheon recess do not discuss the case amongst yourselves  
18 or with anyone else.

19 (Luncheon recess taken.)

20 \*

21 \*

22 \*



JQpa

Garofala-direct

90

AFTERNOON SESSION

2:00 p.m.

(In open court, jury present.)

THE COURT: Ladies and gentlemen, we are going to suspend the cross examination of Mr. Coppola and we will commence the plaintiff's case with a different witness. We will have the further cross examination of Mr. Coppola on Tuesday morning when we resume after tonight.

MR. LORY: Will you get Mr. Garofala, please.

F R E D   G A R O F A L A ,        called as  
a witness by the plaintiff, having first  
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. LORY:

Q     What is your occupation?

A     Hatch boss, longshoreman.

Q     Are you presently a hatch boss?

A     No.

Q     What are you now?

A     Just a longshoreman.

Q     You mentioned the fact that you were a hatch boss. When were you a hatch boss?

JQpa

Garofala-direct

91

A I was a hatch boss during the time of the accident. I don't remember what year that was, I forget. I think it was in '68, I think.

Q In 1968 for how long had you been a hatch boss, as of that date?

A I don't understand the question.

Q In 1968 you told us you were a hatch boss.

A Right.

Q Did you just become a hatch boss or were you

A I was hatch boss prior to that too.

Q For how long a period of time before 1968, from the time the accident happened had you been a hatch boss?

A About ten, twelve years.

Q In 1968 by whom were you employed as a hatch boss?

A ITO.

Q What are the duties of a hatch boss?

A To load ships and discharge.

Q Is the hatch boss the person in charge of a group of men?

A Right.

Q How many men were you in charge of in 1968?

A About 17 men, myself is 18.



JQpa

Garofala-direct

92

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Q What was the composition of the men who worked with you in your group?

A I can't hear you.

Q What job categories were involved in your particular gang? How many men in each job category?

A Have I? I can't hear you.

Q Let me try again.

Mr. Garofala, you told us that in 1968 you were a hatch boss.

A Right.

Q As a hatch boss you supervised the work of a certain number of men?

A Right.

Q I think you told me there were 17?

A Yes, yes.

Q There are various categories in longshore work?

A Right.

Q How many men did you have in each category? How many hold men did you have?

A I have 8 hold men, 3 deck men and 6 dock men.

Q You told us you did not remember the date of the accident except that it was in 1968. Were you

JQpa

Garofala-direct

93

working on board the vessel at the time the accident happened?

A Yes.

Q Do you remember the name of the vessel?

A Yes.

Q What was the name of the vessel?

A The HUGUENOT.

Q Do you remember when you first started working aboard that vessel during this particular voyage?

A I remember working that day on the ship.

Q Did you work on that vessel, the same vessel, the South African HUGUENOT, the day before?

A Yes.

Q Do you remember if that was the first day, the day before, whether that was the first day or had you worked on it the day before that? Your best recollection.

A I don't remember.

Q Do you recall on the date of the accident what time you first came aboard the HUGUENOT?

A We first come aboard was in the morning about 8:00.

Q Had you had instructions to go to a



JQpa

Garofala-direct

94

particular hatch and do your work?

A Yes.

Q What hatch was that?

A Number three.

Q When you got to number three hatch that morning was the hatch opened or closed?

A They are open.

Q What were you going to do, load or discharge?

A Load.

Q At 8:00 in the morning of the date of the accident where was the loading to take place, what deck level of number five hatch?

A I don't remember.

Q What deck level were you working at at the time the accident happened?

A I was up on the upper deck, the shelter deck.

Q When you say the shelter deck, there are two aboard this vessel, are there not?

A There is a shelter deck, a 'tween deck and a lower hold.

Q The shelter deck would be how many decks down, below the main deck level?

A It's one level.

Q Two levels down would be what?

JQpa

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95

1 JQpa  
2 A The 'tween deck.

3 Q What do you call all the way down to the  
4 bottom?

5 A The lower hold.

6 Q You were working in the shelter deck which  
7 would be one deck down from the lower hold?

8 A One deck down from the main deck.

9 Q All right. At what time of day was it  
10 that you started loading cargo into the shelter  
11 deck of number five hatch?

12 A Sometime in the afternoon we were loading  
13 general cargo.

14 Q Where was this general cargo placed?

15 A It was placed in the forward end of the  
16 ship.

17 Q Were you using winches and booms in order  
18 to load this cargo?

19 A Yes.

20 Q How many winches and booms were there at  
21 the number three hatch of the South African HUGUENOT?

22 A There are two booms up forward and two  
23 booms after end and then there is a baby boom that does  
24 the heavy lifting.

25 Q At the time which booms were you using while



JQpa

Garofala-direct

96

1 JQpa  
2 you were loading cargo in the upper 'tween deck?

3 A The forward end booms.

4 Q When I say the upper 'tween deck do you  
5 understand that is another name for the shelter deck?

6 A That is the upper 'tween deck. They call  
7 it the shelter deck too.

8 Q You were using the forward boom. How were  
9 these booms rigged, were they rigged with married falls?

10 A Yes.

11 Q When we say married falls, what does that  
12 mean?

13 A Up and down fall and a Burton fall. You  
14 put them together to put the cargo hook on the two falls.

15 Q How were the booms positioned?

16 A The condition?

17 Q The position. What was the position of the  
18 boom?

19 A One was up and down and one was in shore.

20 Q Assume you are standing on the main deck  
21 of the ship and you are looking towards the front end  
22 of the ship, where would the pier be, on your right or on  
23 your left?

24 A The what?

25 Q Make believe, Mr. Garofala, that you are

JQpa

Garofala-direct

97

1 standing on the main deck of the ship and you are  
2 facing the bow, the forward part of the ship, where would  
3 the pier be, the HUGUENOT -- I am talking about the day  
4 of this accident -- where would the pier be, on your  
5 right or left?

6  
7 A On the right, the starboard side.

8 Q One boom you said was positioned over the  
9 dock, is that right?

10 A Yes, that is the Burton boom.

11 Q And on this occasion which boom was it  
12 on this ship, the starboard, the one on the right, or  
13 the port boom that was over the dock?

14 A The starboard side boom.

15 Q Would it be fair to say that the starboard  
16 boom at forward of number three hatch was what has been  
17 referred to here before as the Burton boom?

18 A Right.

19 Q And the one on the port side of the ship  
20 would be the one that was over the square of the hatch?

21 A Right.

22 Q Where were you at the time that the  
23 accident to Mr. Iannuzzi happened?

24 A I was down the hold. In the shelter deck.

25 Q You were in the shelter deck?



JQpa

Garofala-direct

98

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A Yes.

3

Q Were you in the inshore side, the starboard

4

side or the offshore side, the port side?

5

A I was right in the middle of the hatch.

6

Q When you say the middle of the hatch, what

7

do you mean, you mean the middle of the hatch square?

8

A Right.

9

Q What kind of cargo were you handling at that

10

particular time?

11

A At the time of the accident and prior to the

12

accident?

13

Q Just immediately prior to the accident.

14

A We were loading cars.

15

Q Where were these cars being stowed?

16

A We were stowing them in the lockers.

17

Q When you say locker, what do you mean by

18

a locker?

19

A There are lockers on both sides of the ship

20

on the shelter deck. They are used for refrigeration

21

and special cargo with doors. So you open these doors

22

and you go into these lockers.

23

Q Are these lockers in the area of the hatch

24

that might be referred to as the wing, that area under

25

another lock? Do you understand what I mean?

JQpa

Garofala-direct

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A I don't.

Q You have the square of the hatch, is that correct?

A Right.

Q Everything outside the square, what do you call that?

A There is the square and then the wings and under those wings there are lockers and you got rolling doors and you open them and you go inside.

Q Did you know Mr. Iannuzzi before the date of the accident?

A Yes.

Q How long had you known him?

A I had known him for about over 15 years or so, I guess.

Q Was he your immediate boss on this particular vessel on this particular day?

A I don't understand.

Q What was Mr. Iannuzzi's job on this particular day?

A He was acting foreman.

Q When you are an acting foreman what do you do?

A You tell people what to do and how to work.



JQba

Garofala-direct

100

Q Did he have occasion to tell you what to do on this particular day?

A Yes.

Q What did he tell you to do just about sometime just before the accident?

A He told me -- he asked me if another car will fit in the hatch and I said, "Yes, another car will fit in the square of the hatch."

Q At this particular time I think you told us that you were in the shelter deck.

A Right.

Q In the square of the hatch?

A Right.

Q Where was Mr. Iannuzzi?

A He was right in the middle over the hatch looking at me, talking to me.

Q When you say over the hatch, at what deck level was he?

A He was on deck.

Q When you say on deck, are you referring to the main deck of the ship?

A Main deck.

Q You were down one level below?

A Yes.

JQpa

Garofala-direct

101

Q How many cars had been stowed before something happened to Mr. Iannuzzi?

A We stowed three cars into the locker room.

Q The coaming at the number three hatch of the South African HUGUENOT, how high did that coaming stand over the deck?

A I tell you, I think it's over five feet.

Q You were down below and he was up on the main deck.

A Right.

Q And I believe you told us you were having a conversation with him?

A Right.

Q What happened after that?

A He asked me --

MR. KAIN: If your Honor please, I object to this as hearsay evidence.. What the deceased said to this man, I submit, your Honor, is inadmissible.

THE COURT: I think the conversation is inadmissible but I thought the question was what happened.

MR. LORY: The question was what happened.

MR. KAIN: But the witness started to state what the deceased was saying to him, sir.



JQpa

Garofala-direct

102

1 JQpa  
2 THE COURT: I will agree with you and strike  
3 that out.

4 What happened at that time? That is the  
5 question to you.

6 THE WITNESS: I told you what happened.  
7 He asked me if another car fits down there and I said  
8 yes.

9 Q You can't tell us what the conversation was  
10 about?

11 THE COURT: That conversation is already in  
12 evidence. What did you see after that point, if  
13 anything?

14 THE WITNESS: The car was coming over and  
15 hit him and he fell down the hatch.

16 Q Do you remember what time of day this was  
17 that this occurred?

18 A It was a good day.

19 Q What time?

20 A A quarter after seven, twenty after seven.

21 Q Do you know if the sun was still up or  
22 if the sun had already set?

23 A I don't remember. I think the sun was setting,  
24 I am not sure.

25 Q At that particular time what was the source

1 of light in the hatch?

2 A The lighting was good in the hatch.

3 Q Where did the lighting come from,  
4 Mr. Garofala, did it come from the mast lights?

5 A Some comes from the mast lights and  
6 some comes from the sides down below.

7 Q So the record is clear, is it your testimony,  
8 sir, that while you and Mr. Iannuzzi were engaged in a  
9 conversation, he on the main deck --

10 THE COURT: I am not going to let you  
11 restate this for a yes. He already said what he saw.

12 Q What happened after Mr. Iannuzzi was knocked  
13 into the hatch?

14 A Nothing else happened. I saw the man was  
15 on the ground, on the deck, and he was unconscious.

16 Q Did there come a time that he was removed  
17 from the hatch?

18 A They sent a basket down and they put him  
19 in a basket and they put him on the dock.

20 Q Was any more work done after that?

21 A No, we stopped work and went home.

22 MR. LORY: Thank you.



JQpa

Garofala-cross

104

## CROSS EXAMINATION

BY MR. KAIN:

Q Mr. Garofala, on November 24, 1968 what time of the day did your gang start working number three hatch?

A I think it was 8:00 in the morning.

Q Was there another gang of longshoremen working that hatch at that time?

A I think there was.

Q When your gang started to work at number three hatch were they using the forward booms of the hatch, the longshoremen in your gang?

A We were using the forward booms, yes.

Q Was there another gang, if you remember, using after booms in the hatch at that time?

A Yes, they were using the after end booms.

Q At the time this accident occurred was there still a second gang of longshoremen working in the hatch?

A No, they left.

Q If you recall, were there any heavy lifts put in that hatch that day?

A I don't remember.

Q Do you remember when the second gang of

JQpa

Garofala-cross

105

1 longshoremen left or stopped working in number three  
2 hatch that day?

3  
4 A I think they left in the afternoon sometime  
5 and went to some other hatch.

6 Q During the course of the day while you were  
7 working at number three hatch, did you spend all your  
8 time in the hatch? Were you on deck sometimes? What  
9 did you do?

10 A I was up on deck a few times. I was down the  
11 hold.

12 Q You were also down below sometimes?

13 A Down below too.

14 Q The longshoremen in your gang, do they  
15 get a coffee break sometime in the morning?

16 A Yes.

17 Q On this particular day did they leave the  
18 ship for this coffee break?

19 A No, we didn't leave the ship.

20 Q They didn't leave the ship?

21 A On coffee break they don't leave the ship.

22 Q If you know, when the longshoremen went  
23 down at 8:00, that is the eight hold men you talked  
24 about, did they stay down there then until the noon break,  
25 until they went to lunch?



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A Yes.

Q How about the deck men?

A The deck men spelled each other I think  
a half hour apiece, every hour or two, I don't remember.

Q I think you said you had three deck men in  
this gang, is that correct?

A Three deck men.

Q I am talking about the day of the accident.

A Yes, three deck men.

Q Where would they be, what jobs?

A Two winch men and one gangway man.

Q If you remember, on the day of this  
accident while the cargo winches at the forward end  
of the hatch were in operation were they worked by one  
longshoreman or were they worked by both longshoreman  
who were working the winches?

A One.

Q One man would operate one winch or both  
winches?

A Both winches.

Q And during this time what would the  
other longshoreman winch operator do?

A He would probably go to a place where he can  
warm up.

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Q He is on standby?

A Right.

Q How often did these winch operators rotate or change with each other?

A Sometimes once every two hours, half hour blows, something like that.

Q Let me see if I understand you correctly. Was the system they followed on the day of the accident that one longshoreman would start operating the winches, he worked four tours and then he would be relieved?

A An hour, an hour and a half, two hours, I am not sure.

Q In any event, they used to work roughly equal periods of time?

A Right.

Q How about the gangway man, did he get relieved by anybody?

A He gets relieved by one of the winch men. When he is not on the winch the other man relieves him.

Q Was it part of your job to check to see that these relieves or these exchanges were made between the men who were on the deck at the time?



JQpa

Garofala-cross

108

1  
2 A They shared that among themselves. As long  
3 as there is enough people there.

4 Q As long as you had somebody working it  
5 didn't make any difference?

6 A Right.

7 Q Were they free to leave the ship while they  
8 were not working? I am talking now about the deck men?

9 A Who?

10 Q Was the deck men, the winch operator not  
11 working, was he free to leave the ship during  
12 this time off or during his blow?

13 A Yes, he can leave the ship. He goes to  
14 the rest room and rests up.

15 Q Was the gangway man relieved by anybody during  
16 the day on this gang?

17 A He must have. I don't remember but they usually  
18 do.

19 Q Was the practice for one of the winch men  
20 to relieve the gangway man?

21 A Yes.

22 Q Did anybody relieve you during the day?

23 A I don't get no relief. I am always there.

24 Q At the time this accident happened I think  
25 you said you were down in the upper 'tween deck or the

shelter deck, as you call it?

A Right.

Q That is one level below the weather deck?

A Right.

Q And you were roughly in the middle of the hatch square?

A Right.

Q From where you were standing immediately just before the accident happened, could you see Mr. Iannuzzi?

A Yes.

Q Was he facing you?

A Yes.

Q Was he talking to you?

A Yes.

Q At the time of the accident was he talking to you?

A Yes.

Q From where you stood in the shelter deck could you see whether Mr. Iannuzzi was standing on anything or whether he was standing on the deck, do you know?

A He had to stand on something. There is a ladder there at mid-ship of the hatch. He was



JQpa

Garofala-cross

110

standing over the ladder and talking to me.

Q He was up on the ladder, is that correct?

A He was up above the ladder. Of course, you can't see down below unless you get up on something, on an object. It must have been the ladder.

Q How tall was Mr. Iannuzzi, do you know?

A I think he must have been about 5'7", something like that.

Q And it's your recollection, I think you said, that this hatch coaming was over five feet in height?

A Yes, way over.

Q Is that just an estimate or is -- you didn't actually measure that, did you?

A I don't measure nothing. All I can say is I am this tall and I can't see down the hold unless I got up on some kind of object or ladder to look down below.

Q How tall are you?

A 5'10½".

Q Incidentally, would you tell his Honor and the ladies and gentlemen of the jury what you mean by a hatch coaming? What is a coaming?

A It's a coaming that comes up above the deck, the weather deck. It comes high and there is the

JQpa

Garofala-cross

111

McGreggor doors that go over it. For that to be there is so that people don't fall down the hold.

Q Let me see if I can put it in other words and see if you agree with me.

Is it something like this jury box rail?

A That is right.

Q Does it run around the hatch opening?

A Yes.

Q Is it made out of metal?

A Made out of steel.

Q Was the day of this accident the first time you worked aboard this ship?

A The first time aboard that ship?

Q Did your gang work aboard the HUGUENOT on numerous occasions before the accident?

A Yes.

Q That was a regular pier that the ship called at?

A Right.

Q Would you say it was a great many times that your gang had worked aboard the ship before the day of the accident?

A We worked quite often.

Q Did your gang always work the number three



JQpa

Garofala-cross

11?

hatch?

A That was my regular hatch.

Q Do you at this time have any recollection of the arrangement of the number three hatch and hatch coaming?

A I don't understand.

Q You mentioned before that in order for Mr. Iannuzzi to see into the hatch he would have had to be up on a ladder, is that correct?

A Right.

Q And this ladder was located where?

A It's located in the middle of the hatch.

Q When you say the middle of the hatch, you mean up on a weather deck, the open deck?

A Right.

Q Did this ladder run down from this hatch coaming you have just described, this steel fence that went around the hatch opening?

A It's a longside the steel coaming.

Q What kind of ladder was it, can you describe it?

A It's a steel ladder. It's welded onto the sides.

Q Is it bars?

JQpa

Garofala-cross

113

1 JQpa  
2 A It's bars, welded onto the side of the  
3 coaming.

4 Q Was there more than one of these ladders?

5 A No, I think there was only one in the middle.  
6 I am not sure now. I don't remember, it's such a long  
7 time.

8 Q If you remember, were there any other  
9 appliances or appurtenances to this hatch, anything else  
10 that you could stand on to look over the hatch?

11 A Yes. At each end of the hatch there was  
12 like a little platform that you can step on and you can  
13 see down below.

14 Q Do you remember how high above the  
15 deck level itself these little platforms were that you  
16 say were at the ends of the hatch?

17 A I guess about three, four feet, something  
18 like that.

19 Q When this accident happened you had already  
20 loaded some cars into the hatch?

21 A Right, prior to the accident.

22 Q In loading these cars into the hatch did  
23 the longshoremen in your gang use tag lines?

24 A What do you say?

25 Q Did the longshoremen in your gang use tag



JQpa

Garofala-cross

114

lines in putting these cars through the hatch?

A Yes, we used lines.

Q Would you tell his Honor and ladies and gentlemen of the jury what you mean by a tag line? What is a tag line?

A You told the car to ease it down the right way. Usually you use straps underneath to pick up the car and then we put it in there.

Q Is a tag line a rope line attached to the car or the draft? When I say draft, you understand what is in the cargo hook, is that usually called a draft?

A You use a rope line.

Q Are these tag lines designed to keep the cargo, the draft of cargo or the cargo in the cargo hook from swinging or moving?

A You don't use that on cargo hooks. You usually use it on cars to hold it.

Q I say, is the tag line designed to keep the cargo that is on the hook -- you understand when I say cargo I mean anything on the cargo hooks, a car, a bail --

A They only use it on cars. We don't use it on anything else.

Q You do use it on cars?

A Right.

1 JQpa  
2 Q Was there one or more tag lines on these  
3 cars that you loaded before this accident into that  
4 hatch?

5 A I don't remember. We usually have one.

6 Q Whose job is it to tend this tag line?

7 A Sometimes they use it from the dock. They  
8 hold it over with the dock. The line is long and they  
9 hold it from the dock.

10 Q Let's take the operation that you were  
11 using on this particular day. Is it your testimony --

12 A I couldn't see, I am down in the hold.

13 Q Was there a tag line on each car as they  
14 came into the hatch? Did you see a tag line when it  
15 passed over the open part of the hatch coaming?

16 A I don't remember.

17 Q You don't remember whether there was a  
18 line, is that your testimony?

19 A There must have been because we always use  
20 a tag line on it. That is the usual procedure.

21 Q Based on your experience would a tag line  
22 be necessary in loading cars of this type?

23 A It is necessary.

24 Q But you don't remember whether a tag line  
25 was used, is that correct?



JQpa

Garofala-cross

116

1                   A       It most likely must have been used because  
2  
3       that is the usual procedure that we go through. It's  
4       a known procedure.

5                   Q       I understand that. I don't want you to  
6       guess. If you remember or you have a distinct  
7       recollection that this is so I want you to tell me.  
8       If you don't remember I want you to tell me.

9                   A       No.

10                  Q       Do you remember what type of car it was  
11       that struck Mr. Iannuzzi?

12                  A       What type of car?

13                  Q       Yes, what type of car.

14                  A       The type of cars --

15                  Q       The one you say you struck Mr. Iannuzzi  
16       as he stood looking to you.

17                  A       It was a big car. I don't remember the name  
18       of the car but it was a big car.

19                  Q       Something like a Cadillac or a Lincoln?

20                  A       Something like that, Bonneville, something  
21       like that.

22                  Q       Do you remember what type of car it was,  
23       whether it was a station wagon or a sedan?

24                  A       I believe it was a sedan.

25                  Q       Do you remember its color?

1 JQpa  
2 A No.

3 Q After the car struck Mr. Iannuzzi, you say  
4 he was knocked into the hatch?

5 A Yes.

6 Q Did you actually see the car strike  
7 Mr. Iannuzzi?

8 A Yes.

9 Q Could you tell me what portion of the car  
10 struck Mr. Iannuzzi? What hit Mr. Iannuzzi?

11 A The back part of the car hit him.

12 Q You say the back part, do you mean the  
13 rear bumper?

14 A The back wheels.

15 Q The back wheels?

16 A Yes.

17 Q Was it both wheels or one wheel that hit  
18 Mr. Iannuzzi?

19 A I believe one wheel hit him.

20 Q Do you remember which wheel it was?

21 A No, but I remember it was the back of the  
22 car.

23 Q Did you see this car at any point before  
24 it struck Mr. Iannuzzi?

25 A No.



JQpa

Garofala-cross

118

1 JQpa  
2 Q It was out of your field of vision when it  
3 was on deck?

4 A I couldn't see it.

5 Q The first time you saw it is when it hit  
6 Mr. Iannuzzi and knocked him down?

7 A That is right.

8 Q Did you observe the car after it struck  
9 Mr. Iannuzzi?

10 A The car was above us, overhead.

11 Q Hanging above you?

12 A Right.

13 Q Still on the cargo hook?

14 A Right.

15 Q At the time this car struck Mr. Iannuzzi  
16 was this other gang of longshoremen out of the after  
17 end?

18 A They were out..

19 Q If you remember, were the after booms still  
20 rigged at that time?

21 A I don't remember that but we usually put  
22 the booms on the side so the cars can pass.

23 Q After Mr. Iannuzzi was struck by this car  
24 you say he was knocked into this 'tween deck, is that  
25 correct?

1 A Right.

2 Q Do you remember approximately where in the  
3 'tween deck Mr. Iannuzzi's body landed?  
4

5 A It went mostly on the after side of the  
6 hatch, in the middle. In the middle of the hatch but  
7 more aft.

8 Q When you say in the middle of the hatch  
9 do you mean approximately in the center line of the  
10 hatch?

11 A In the center line of the hatch but mostly  
12 aft.

13 Q Mostly aft. Let me see if I understand you.  
14 If we take the square, the hatch opening,  
15 the body fell in the hatch square, is that correct?

16 A I am talking about the middle between  
17 forward and aft.

18 Q I understand that.

19 A When he landed, he landed mostly aft in the  
20 center of that hatch, mostly aft.

21 Q You mean at some point in the after part  
22 but out about in the middle of the hatch square, is that it?

23 A Right.

24 Q Did you go over to where Mr. Iannuzzi had  
25 fallen?



2 A What?

3 Q Did you go to where Mr. Iannuzzi had fallen?

4 A I couldn't hear you.

5 Q Did you walk over to where he fell?

6 A Right.

7 Q About how much away were you from him at the  
8 time?

9 A I must have been four, five feet away from  
10 him.

11 Q Was he unconscious at that time?

12 A Yes.

13 Q What was next done by the longshoremen  
14 in your gang?

15 A Everybody gets excited, you know. You  
16 don't remember everything. The only thing I saw was  
17 them bringing the basket down to pick the man up and  
18 put him on the dock.

19 Q How was this basket sent down into the hatch?

20 A With the winches.

21 Q In order to send the basket down into the  
22 hatch, did they have to take the car that you said was  
23 hanging there off?

24 A We took the car back on the dock.

25 Q They put it back on the dock?

- 1 JQpa
- 2 A Right.
- 3 Q At no time did they bring it down into the
- 4 hatch, is that correct?
- 5 A No, sir.
- 6 Q They put the car back in the dock and I
- 7 take it you didn't leave the hatch?
- 8 A No.
- 9 Q Did the basket -- incidentally, was this a
- 10 basket stretcher you are talking about?
- 11 A A steel basket.
- 12 Q It was designed as a stretcher?
- 13 A Designed as a stretcher.
- 14 Q Was this placed on anything when it was
- 15 set down? Was it on a pallet?
- 16 A No, it was hooked up.
- 17 Q Hooked up to the cargo hook?
- 18 A Hooked up to the cargo hook.
- 19 Q It had four bridles or wires?
- 20 A Four wires coming down.
- 21 Q One on each end of the basket stretcher?
- 22 A That is what they usually come with.
- 23 Safety basket they call them.
- 24 Q Was this brought down by the same cargo hook?
- 25 A Yes.



1 JQpa  
2 Q About how long after this accident happened  
3 was this stretcher brought down into the 'tween deck  
4 where Mr. Iannuzzi was?

5 A I didn't hear you.

6 Q About how long after the accident happened  
7 was the stretcher brought down into the 'tween deck  
8 where Mr. Iannuzzi was?

9 A How long was it?

10 Q About how long.

11 A About 15, 20 minutes.

12 Q 15 minutes?

13 A Yes.

14 Q Did there come a time thereafter when  
15 Mr. Iannuzzi was taken out of that 'tween deck?

16 A I don't understand.

17 Q Did he at some subsequent time, was  
18 Mr. Iannuzzi taken out after the stretcher was brought  
19 down?

20 A I don't remember.

21 Q Were you present when Mr. Iannuzzi was taken  
22 out of the hatch?

23 A Yes.

24 Q How long after the accident was he taken  
25 out of the hatch? That is approximately.

JQpa

Garofala-cross

123

A About 15, 20 minutes. I don't remember exactly.

Q Was he taken out in a stretcher that was brought down there?

A He was taken out with the basket.

Q In the basket?

A Right.

Q Was he taken out on the same cargo hook or with the same cargo hook for the booms in the forward end?

A Yes.

Q Did anybody go up with the stretcher, did it come up on anything?

A Not that I know of.

Q How long thereafter did you stay down in the hatch?

A Right after they took the man out we went away.

Q Did the longshoremen stop work that day at that time?

A We stopped, we went home.

Q That is your gang?

A My gang went home.

Q As far as your gang is concerned no further cargo was loaded in that hatch that day?



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25

A Not that I know of.

Q Do you remember whether this car being loaded at the time of the accident was the last piece of cargo in the hatch?

A That was the last car going in.

Q Was it to be stowed in the hatch square or in one of these lockers that you talk about?

A We were going to lower it into the square.

Q Lower it into the square?

A Right into the square.

Q Other than the longshoremen in your gang, were there any other persons working in the number three upper 'tween deck at the time of this accident?

A No one working there but us. I told you.

Q Do you remember now, looking back on this, where the head or the end of the up and down boom was positioned in that hatch square?

A It was rigged up for the car almost in the middle of the hatch.

Q Just about in the middle of the hatch?

A Not quite. It was a little more forward.

Q But roughly in the center as opposed to being on the offshore side, is that correct?

A It was like I said, mostly forward. Not too

JQpa

Garofala-cross

125

1 much. I don't know how to explain it. It's not  
2 quite in the middle, but a little off.

3 Q It was in the forward portion with respect  
4 to the length of the hatch, is that correct?

5 A It was near the forward part where the car  
6 is supposed to land.

7 Q How far out from the inshore coaming or the  
8 coaming next to the pier, how far out into the hatch  
9 square was it, about half-way across?

10 A The boom?

11 Q The top of the boom.

12 A The top of the boom -- the up and down  
13 boom is usually over on the offshore side.

14 Q I want you to tell me with respect to this  
15 particular accident, if you remember, where was it?  
16 On this particular day do you remember where it was?

17 A It was almost in the middle of the hatch,  
18 the up and down boom where the car is supposed to  
19 land.

20 Q Did you ever have occasion, Mr. Garofala,  
21 to talk to the men working either in the upper 'tween  
22 deck, the lower 'tween deck or the lower hold in this  
23 ship from the main deck?

24 A Yes.



JQpa

Garofala-cross

126

Q And on these occasions did you have to stand on something to talk to these men?

A Yes.

Q Did you ever stand on these little platforms you described at each end of the hatch?

A Yes.

Q Could you stand on those and talk to the men down in the hatch?

A Yes. It all depends what part of the hatch they are in.

Q How long have you been a longshoreman?

A About 35 years.

Q Based on your experience as a longshoreman and as a hatch boss is it proper stevedoring practice or proper longshore practice for a longshoreman to stand in the plane that the cargo draft is going to follow?

A No, it's not the procedure to stand there. It's not the procedure.

Q Is that a dangerous procedure, to stand in the plane formed by the head of the two booms, the path the cargo follows?

A Yes.

Q On the day of this accident how long had

JQpa

Garofala-cross

127

you been a hatch boss approximately?

A About 12 years, maybe more. I am not sure.

Q About 12 years?

A About 10 or 12 years. I don't remember.

Q Was it part of your job as a hatch boss to be familiar with the safety and healthy regulations for longshoring, Mr. Garofala?

A Yes.

Q Were you familiar with these regulations?

A Yes.

Q Could you tell me, Mr. Garofala, do these regulations require under any circumstances the use of tag lines on cargo being loaded aboard a ship?

A You don't put tag lines on cargo. We usually put it on cars.

Q Is there anything in the regulations with respect to tag lines, if you recall?

A Regulations on what?

Q Safety and health regulations for longshoring. Are you familiar with these regulations?

A About tag lines?

Q The safety and health regulations for longshoring published by the United States Department of Labor, are you familiar with those?



1

2

A I am familiar with a certain amount.

3

Q That is my question, if you are familiar with

4

them, could you tell me is there any requirement or

5

any reference in these regulations to the use of tag

6

lines on cargo?

7

A Not on cargo. There is usually a regulation

8

on cars alone.

9

Q It only has to do with cars?

10

A As far as I know. In the book it says -- on

11

the others, I don't know.

12

Q Are there also certain regulations with

13

respect to winches in the safety and health regulations,

14

for the use of cargo winches?

15

A The winches?

16

Q Yes, use of cargo.

17

A The winches have to be in good working order

18

to operate them.

19

Q Did you instruct the longshoremen in your

20

gang to report any defects in the cargo winches to you?

21

A Yes, they know that, if they were defective,

22

they usually tell me or they tell the gangway man.

23

When I am not there they tell the gangway man.

24

Q My question is: Were your winch operators,

25

the winch operators in this gang, the gang you were

JQpa

Garofala-cross

129

1 working with on the day of this accident, had you  
2 given them instructions to report all defects in the cargo  
3 winches to you?  
4

5 A No, I didn't give them no instructions.

6 Q Did you instruct the winch operators not to  
7 use defective winches?

8 A It's a known fact they are not supposed to  
9 use defective winches. They are supposed to tell me  
10 or the foreman.

11 Q Is it true that they are supposed to stop  
12 using them immediately until the defect or the dangerous  
13 condition has been taken care of, is that correct?

14 A Yes.

15 Q Were those the instructions that your winch  
16 operators had on this day?

17 A That is the instructions they have.

18 Q Did you receive any complaints from  
19 your winch operators on the day of this accident?

20 A The only complaints was that the winches  
21 weren't working properly and they had to be oiled.  
22 They had to put oil in them.

23 Q This is on the day of the accident?

24 A That was the day of the accident.

25 Q This was a report that you received from your



JQba

Garofala-cross

130

1 winch operators?

2 A I was told and the gangway man was told and  
3 I tell the gangway man --

4 Q My question is --

5 MR. COHEN: May we have him finish the answer,  
6 please.

7 THE COURT: Go ahead.

8 A When there is a defective winch that needs  
9 attention they usually tell me or the gangway man if I  
10 am not there and he tells the ship officer about it and  
11 they go there to correct it.

12 Q That isn't my question.

13 MR. KAIN: Your Honor, I move to strike the  
14 answer to that question as non-responsive and the jury  
15 be asked to disregard it.

16 THE COURT: Strike it out and the jury will  
17 disregard it.

18 Q Listen to my question.

19 My question is: On the day of this accident,  
20 November 24, 1968, did you, I mean you personally, receive  
21 any complaints from your longshoremen winch operators  
22 concerning the winches at the forward end of number  
23 three hatch aboard the HUGUENOT?  
24

25 A That day I had a report from a winch man during

JQna

Garofala-cross

131

the day.

Q You did receive a complaint?

A He made a complaint that the winch wasn't working properly.

Q From whom did you receive the complaint?

A From the winch men.

Q Both winch men or one winch man?

A One winch man.

Q Both winch men?

A One.

THE COURT: He said one.

Q Which winch man was that?

A That was Coppola.

Q Did Mr. Coppola tell you the nature of the defect or the difficulty he had with the winches?

A He just told me they weren't working properly.

Q When did he tell you this?

A That was during the day.

Q Do you remember what time during the day?

A I don't remember. It must have been sometime in the afternoon.

Q Sometime in the afternoon?

A Yes.

Q Where were you when this complaint was received



JQpa

Garofala-cross

132

1 from Mr. Coppola?

2 A I was on deck.

3 Q O n deck?

4 A Right.

5 Q Did he describe this defect any differently  
6 than just that they weren't working properly? Did he  
7 tell you in what respect they weren't working properly?  
8

9 A The winches didn't coincide, the Burton and  
10 the up and down weren't coinciding together.

11 Q He told you they weren't coinciding?

12 A Right.

13 Q What did that mean to you, they weren't  
14 coinciding?

15 A Sometimes one is faster than the other.  
16 Or one is slower than the other.

17 Q You have been a winch operator at sometime  
18 in your experience, have you not?

19 A Yes.

20 Q Isn't it true that these winches operate  
21 separately, they are not tied in to each other, they  
22 each have their own controls, isn't that so?

23 A Right.

24 Q Isn't it true that the winch operator can  
25 operate one faster than the other or one slower than the

JQpa

Garofala-cross

133

other depending on what he does with the control  
for each winch?

A He has to have the feel of it himself.

Q It's a little bit like mixing water in a  
bowl where you have a cold faucet and hot faucet and you  
move them?

A Right.

Q But they all have separate controls, don't  
they?

A Right.

Q Is that what this meant to you? I will  
rephrase that.

Could you tell me when he told you they  
weren't coinciding with each other, do you know what  
he meant? What did it mean to you?

A I know what it meant. One worked different  
from the other. One worked slower and one worked  
faster.

Q Did he give you any reason as to why one  
worked slower and one worked faster?

A He didn't give me no reason, just that it  
didn't work properly.

Q Isn't it your experience that the winch  
operator controls the speed of the two by moving the  
levers?



JQpa

Garofala-cross

134

1

2

A Yes.

3

Q And on these hydraulic winches there are

4

no fixed positions for a time release?

5

A No.

6

Q So you do this byeye, you correct the valve

7

and look and see how fast it's moving?

8

A You watch the freight to see it moving.

9

Q But you don't watch your levers, you move

10

them and as you crack the valve you adjust the speed, is

11

that correct?

12

A That is how you adjust the speed.

13

Q Were you told that it was impossible to

14

adjust the speed of these two winches to the desired

15

rates?

16

A No, I wasn't told about that. All I know

17

is that when those things happen we usually stop the

18

winches and have them corrected.

19

Q When you were told this what did you do?

20

A I told the gangway man to get the official

21

to correct these winches.

22

Q Were you present to see whether or not the

23

gangway man carried on construction?

24

A I was there.

25

Q You were there?

A Yes.

1 Q What did the gangway man do?

2 A He called the officer in charge and they  
3 had the winches fixed. They had the winches oiled.

4 Q Had them oiled?

5 A Right.

6 Q Could you tell me how he went about calling  
7 the officer in charge? Was he at the hatch?

8 A You have to go into the officer's room  
9 and get the officer of the day to get the man that usually  
10 fixes these things.

11 Q If you know, is that what the gangway man  
12 did this afternoon when you got this complaint?

13 A That is what he did. He had to go call him.

14 Q Did you see him go?

15 A I don't watch everything. I told him to  
16 go and get him and that is it. He went to get the  
17 man and the man was up there and put the oil in the  
18 winches to correct them.

19 Q Were you there when the gangway man left  
20 to go and get the officer?

21 A I was there when he went to get the  
22 officer.

23 Q When the gangway man left did the longshoremen  
24 stop work at the hatch?  
25



JQpa

Garofala-cross

136

1                   A       You have to stop because you can't work no  
2  
3 other way. It's very dangerous to work that way.

4                   Q       Were you there when the gangway man returned  
5 to the hatch?

6                   A       Yes.

7                   Q       With whom did he return, if anybody?

8                   A       The officer.

9                   Q       Do you know which officer?

10                  A       I don't know. I know it's the officer  
11 that went up by the winches to correct them.

12                  Q       When the officer got there what if anything  
13 did the officer do?

14                  A       He put oil in the winches.

15                  Q       Where did he put it in the winches?

16                  A       He put it in the Burton winches. I don't  
17 remember which one. It was the two of them I guess. He  
18 put it in two of them.

19                  Q       Do you remember how he went about putting  
20 them in the winches?

21                  A       No.

22                  Q       Were you present when he put it in?

23                  A       I was on deck. I was just looking from  
24 there. I don't know what he put in. He put the oil in  
25 there and that is all I know.

1 JQpa  
2 Q This was all done by one of the ship's  
3 officers?

4 A Yes.

5 Q Did he use any kind of an appliance to put  
6 this oil in the winch?

7 A I don't remember. They usually have a  
8 pump or something. I don't remember.

9 Q Was that the only occasion, the occasion that  
10 you mentioned on the afternoon of the day of this  
11 accident, was that the only time that you got a complaint  
12 that day?

13 A If I remember, I think my gangway man got  
14 a complaint the day before.

15 Q That is not my question. I am talking about  
16 what you got in the way of complaints.

17 A What?

18 Q I am asking you what complaints you  
19 personally received.

20 A I didn't get no other complaint.

21 Q That is the only one you got?

22 A That is the only one I got.

23 Q About how long did it take the gangway man  
24 to go get this officer, bring him back and have the  
25 officer put oil in this winch or these winches?



1  
2 A It usually takes about ten minutes, something  
3 like that.

4 Q Ten minutes?

5 A Yes.

6 Q You don't know where he had to go to get  
7 the officer?

8 A Yes, he knows where to go and get him.  
9 There is always an officer on deck.

10 Q There was an officer on deck?

11 A There is always an officer on deck.

12 Q Did you yourself make any complaint to the  
13 officer on deck at the time?

14 A No, I didn't. I t was just the gangway man  
15 I sent.

16 Q Do you have a recollection that there was  
17 an officer on deck at the time you got this report?

18 A No, I don't remember.

19 Q Did you stay down in this hatch until after  
20 Mr. Iannuzzi had been removed from the ship?

21 A I was down the hatch until he was removed.

22 Q You weren't present when he was taken from  
23 the pier?

24 A No, not from the pier.

25 Q Did you make any report to anybody about this

1  
2 accident?

3 A No. The only one we made a report to was  
4 some officer come over my house.

5 Q You mean a police officer?

6 A Yes.

7 Q You spoke to him?

8 A I spoke to him.

9 Q Did you tell him what you knew about the  
10 accident?

11 A I told him what happened, what I saw.

12 Q Did he ask you to sign any kind of a report  
13 or statement?

14 A No, I don't remember if I did or not. I  
15 don't remember signing anything.

16 Q Have you signed any reports or any statements  
17 in this case?

18 A No, I don't think so.

19 Q Have you been represented by Mr. Gritz's  
20 office in any case where there was a claim?

21 A Yes.

22 Q About how many cases and claims have you  
23 had with Mr.

24 A About one or two.

25 Q Have you got any present cases or claims



JQpa

Garofala-cross

140

with Mr. Gritz's office?

A Not that I know of.

MR. KAIN: No further questions.

CROSS EXAMINATION

BY MR. COHEN:

Q Mr. Garofala, I believe you said that in 1968 you were a hatch boss and today you are just a longshoreman, is that right?

A Right.

Q When you were a hatch boss were you the boss of a steady, regular gang?

A Yes.

Q Did that gang have seniority at a certain pier? In other words, was it a steady gang?

A A steady gang and a steady pier.

Q What pier was that?

A What?

Q What pier?

A Pier 6, Port Authority.

Q In Brooklyn, is that right?

A Right.

Q I believe you said in answering one of Mr. Kain's questions that your gang would regularly work the number three hatch of any ship that was tied up

JQpa

Garofala-cross

141

1 at that pier.

2 A The majority of the times we did.

3 Q Did there come a time when that pier closed?  
4 Did that pier close?

5 A Yes.

6 Q When did that pier close?

7 A I think about a year and a half --

8 MR.LORY: Objection. Aren't we going far  
9 afield?

10 THE COURT: I will allow it.

11 A About a year and a half ago.

12 Q When that pier closed all the longshoremen  
13 that had worked there steadily now lost their steady  
14 gangs, is that right?

15 A Yes.

16 Q Who do you work for today?

17 A I work for everybody, every stevedore there  
18 is on the waterfront.

19 Q In other words, you have to find work  
20 whenever it's available, wherever it's available, is  
21 that correct?

22 A Right.

23 Q I think you said that on the day of the  
24 accident Mr. Iannuzzi was an acting foreman?  
25



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25

A Right.

Q What was his regular job?

A His job was as hatch boss just like me. He had a gang too.

Q Also like you at Pier 6?

A Right.

Q On the day of this accident you were working personally down on the shelter deck level?

A Right.

Q How many other longshoremen did you have down there with you?

A Eight other men.

Q Eight other longshoremen in the shelter deck.

A Right.

Q They were at this time engaged in loading cars?

A Right.

Q Do you remember how many cars had already been loaded before the accident?

A Yes, I believe there were three cars we put in the lockers.

Q And you had no trouble loading those three cars, did you?

1 JQpa  
2 A No, we had no trouble.

3 Q In addition to the longshoremen who were  
4 members of your gang did you have other people down there  
5 in that deck loading?

6 A No.

7 Q Did you have any carpenters working down  
8 there?

9 A I don't remember. They usually have  
10 carpenters down the hold to chock the cars. That there  
11 I don't remember if there were men down there.

12 Q Can you please explain to the jury what you  
13 mean when you say there are usually carpenters down there  
14 to chock cars?

15 MR. LORY: Objection. Again, aren't we  
16 going far afield?

17 THE COURT: I will allow it. Go ahead.

18 A When we load cars in the hatch, the carpenters  
19 have 2X4's to chock these cars. While we put  
20 them in place they chock them.

21 Q By chocking them, do you mean the carpenters  
22 would take these long lengths of 2X4's and nail them down  
23 around the car so that during the voyage overseas the  
24 cars wouldn't shift around?

25 A Right. That is down below.



JQpa

Garofala-cross

144

Q Do you have any memory one way or the other as to whether there were any carpenters doing that chocking work at the time of this accident?

A I don't know for sure.

Q You don't know one way or the other?

A I don't remember whether there were any there or not.

Q How do the carpenters normally get the 2X4's they have to use for chocking down into the hold?

A Before we load the cars we take a draft of 2X4's and put them down in the hold. We put them out of our way for the carpenters to handle.

Q While working in the upper 'tween deck level have you ever seen carpenters pass the 2X4's down from the main deck to the upper 'tween deck?

A The only time they pass 2X4's down the hatches is when the hatch is finished and when there is no one around, most of the times.

Q That is the only time they are supposed to do it, is that right?

A That is the only time they do, they are supposed to .

Q While the hatch --

A While we are working they are not allowed to

JQpa

Garofala-cross

145

do that.

Q If while the longshoremen are working the carpenters would be passing 2X4's down by hand they would be doing something improper and unsafe, would they?

A That is improper to do. Like I told you, we got a draft and brought them down below.

Q My question is, sir, if when the longshoremen were working, carpenters would be passing 2X4's down by hand, would the carpenters be doing something improper and unsafe?

A People are working down below and that is improper to do.

Q After you loaded the first three cars I believe you said that Mr. Iannuzzi spoke to you and asked you if you had room down there for another car?

A I told him we have room for the square of the hatch.

Q And at that time you personally were standing on the upper 'tween deck level and Mr. Iannuzzi was on the main deck level, is that correct?

A Right.

Q Was he standing on the inshore or the offshore side of the ship?



JQpa

Garofala-cross

146

A He was on the inshore side.

Q And by inshore you mean that side of the ship which was next to the land, is that correct?

A Right.

Q Offshore means that side of the ship which is out to the water, right?

A The inshore side is the starboard side of the ship.

Q The way this ship was tied up on that day the starboard side of the ship was inshore, is that correct?

A Right.

Q And when Mr. Iannuzzi spoke to you were you able to see him?

A Yes.

Q Were you able to see his face?

A Yes.

Q I believe you mentioned there was a coaming around the hatch.

A Right.

Q Let me show you this photograph and that metal coaming, does that show up in this picture, Exhibit C?

A Here is the coaming here but I don't see the

JQpa

Garofala-cross

147

ladder here.

Q But you see the coaming there, is that right?

A Right.

MR. COHEN: May I ask for that marking pen, your Honor, so we can identify some things?

THE COURT: Surely.

THE WITNESS: Is this the HUGUENOT?

Q That's been represented as the HUGUENOT, yes.

Could you just put --

A Is this half a hatch?

Q Whatever is shown in this picture, does it show you the coaming?

A This is the coaming.

Q Could you put a mark on it, an X mark.

A Yes.

MR. COHEN: May I show the jury where the X mark is, your Honor?

THE COURT: Yes.

Q I believe we may have some other photographs that would show the ladder and the step you were talking about.

A Yes.



1 JQpa  
2 Q Let me show you this photograph and ask you  
3 if that shows the coaming with the ladder and the steps  
4 at either end of the hatch that you were talking about?

5 A Yes.

6 Q Could you please mark on this photograph,  
7 and you can put the word up here and we will have an  
8 arrow come down, put the word platform up here and we  
9 will draw an arrow down to it.

10 MR. LORY: That is not marked.

11 MR. COHEN: I will offer it.

12 THE COURT: Mark it for identification.

13 (Third Party Exhibit D marked for  
14 identification.)

15 MR. LORY: I have no objections to this one  
16 going into evidence, your Honor.

17 MR. KAIN: No objection.

18 THE COURT: It may be received.

19 (Third Party Exhibit D received in  
20 evidence.)

21 O If you would be so good as to write the  
22 word platform up in the ski there we can then draw an  
23 arrow from it down to the platform.

24 Draw an arrow from the word platform  
25 down to where the platform is.

1 JQpa  
2 Could you do the same thing for me please  
3 with regard to the ladder shown in this photograph,  
4 if you write the word ladder up in the sky we can draw  
5 an arrow to it.

6 A Yes.

7 Q At the opposite end of the hatch as shown  
8 in this photograph, is there another platform?

9 A Right.

10 Q We have no sky there but it shows up in  
11 here.

12 A Yes.

13 MR. COHEN: May I just show this to the  
14 jury, your Honor?

15 THE COURT: Certainly.

16 Q When you were talking to Mr. Iannuzzi he  
17 was bending over the coaming looking down at you and  
18 you were below him, is that, right?

19 A He probably was standing on the ladder and  
20 talking to me over the coaming.

21 Q My question was was he bent down talking to  
22 you below?

23 A Yes.

24 Q And you were able to see his face?

25 A Right.



JQ: a

Garofala-cross

150

Q That meant, did it not, that the back of his head would be up towards the sky?

A Right.

Q And that meant that the top of his head would be facing to the offshore side of the ship, is that right, if he is bent down that way?

A He is looking down towards me.

Q When you told Mr. Iannuzzi that you had room for one more car what did you see him do?

A I think -- I am not sure, he ordered the gangway man to pick up the car.

Q Did he remain in that same position?

A He remained in the same position.

Q If you let me finish my questions I will let you finish your answers.

A Okay.

Q Did he remain in that very same position in which he had been while talking to you or did he go away somewhere?

A He stayed in the same position.

Q With his head still bent down looking towards you?

A Talking to me.

Q After you told him that you had room for one

JQpa

Garofala-cross

151

more car did he leave that position to go somewhere, to give orders to anybody?

A No, he didn't leave that position.

Q He stayed right there?

A He stayed there.

Q From that point on until you say you saw him hit by the car he remained in that position?

A Right.

Q Is that your testimony?

A Right.

Q Now, the gangway man's position is over by the ship's rail, isn't it?

A Right.

Q And the ship's rail was how many feet away from the coaming?

A I don't know, maybe about ten feet, fifteen feet. I am not sure.

Q Between the coaming that Mr. Iannuzzi was at and the ship's rail where the gangway man was at, there was a mess of cargo stowed on the deck, wasn't there?

A Yes.

Q How did Mr. Iannuzzi get word to the gangway man that another car was to be taken up after you told



JQpa

Garofala-cross

152

1 Mr. Iannuzzi that there was room for another car?

2 A I don't remember correctly but I know  
3 there were drums on deck and there were farm implements,  
4 machinery, **mowers**. He must have been looking over  
5 the drums and saw the gangway man to give him orders.  
6

7 Q Do you know how tall that farm machinery or  
8 tractors was?

9 A I don't know whether it was in his way or  
10 not. I don't remember.

11 Q Do you know how tall it was?

12 A Pretty high, about six feet high, something  
13 like that, maybe more.

14 Q And it was higher than Mr. Iannuzzi, was it?

15 A Right.

16 Q How did Mr. Iannuzzi, if you know, manage to  
17 stay in that same position where he had been talking to  
18 you and get word to the gangway man who's on the other  
19 side of that high tractor over by the rail?

20 MR. LORY: Your Honor, I must object. This  
21 witness has already stated that he is down below and he  
22 is not in a position to see what Mr. Iannuzzi was doing.  
23 Mr. Cohen is asking him to speculate.

24 THE COURT: I will allow this question as  
25 cross examination given the nature of the circumstances.

JQpa

Garofala-cross

153

Q If you don't know how Mr. Iannuzzi was able to do that please feel free to tell us. I don't want you to guess.

A I can't guess. I don't know. But you asked me where he was standing. He was standing in between the cargo and the coaming.

Q Sir, your testimony is that you saw him standing bent over the coaming talking to you, is that right?

A Right.

Q And your testimony has been that from that point on up until the time of the accident he remained in that very same position, wasn't that your testimony to this jury just a few minutes ago?

A I told you yes.

Q From the time that you told Mr. Iannuzzi that you had room for one more car, up until the time the accident happened, how long a period of time elapsed?

A It must have been about a split second.

Q Excuse me?

A It wasn't long.

Q How long?

A Maybe about a minute or two, something like that, maybe a minute, maybe less.



JQpa

Garofala-cross

154

1 JQpa  
2 Q Is it your testimony then that from the time  
3 you told Mr. Iannuzzi that you had room for one more car  
4 it took less than a minute for him to convey --

5 A I don't remember, maybe.

6 Q We had an arrangement, if you let me finish  
7 the question I will let you finish the answer.

8 A Go ahead.

9 Q Is it your testimony then that in less than  
10 a minute after you told Mr. Iannuzzi that you had room  
11 for one more car he was in that amount of time able to  
12 convey word to the gangway man who would have to convey  
13 word to the men working on the dock to hook up another  
14 car with the bridles that they used for the automobiles  
15 and that they hooked up the car, raised it up and  
16 brought it over the deck all in that time of less than  
17 a minute?

18 A No, I don't remember how long it took. I don't  
19 remember.

20 Q How long does it take to hook up a car with  
21 bridles?

22 A About five, ten minutes.

23 Q How long does it take -- by the way, can  
24 you explain to the jury what car bridles look like?

25 A They are straps put underneath the car in

JQpa

Garofala-cross

155

between the wheels, underneath the chassis. They are nylon straps.

Q If it takes five to ten minutes to hook up car bridles to a car, how long does it take to raise it up over the rail of a ship like the HUGUENOT and raise it up over the tractor that was stowed there?

A About two, three minutes.

Q Is it your testimony that in the 8 to 13 minutes that it would take for that operation to be done Mr. Iannuzzi stood all that time in the very same spot where he had been talking to you?

A He was talking to me. I don't remember. All I know is the car hit him, that is all I know.

Q I got a very simple question for you.

In the 8 to 13 minutes that you estimate it would take to hook up a car and do that operation that I have described, is it your testimony that during all that time Mr. Iannuzzi stood bent over the ship's coaming as you last saw him?

A He stayed there until the car came over.

Q He stood there for all that period of time?

A Yes.

Q What were you doing all that period of time?



JQpa

Garofala-cross

156

1 JQpa  
2 A I was down the hold waiting for the car to  
3 come over.

4 Q Did you have any work to do?

5 A I was waiting for the car to come so I can  
6 place it.

7 Q What were your men doing?

8 A My men were standing by until the car come  
9 down.

10 Q During all that period of time did you  
11 keep looking at Mr. Iannuzzi?

12 A I don't remember.

13 Q If you don't remember looking at him up on  
14 the deck above -- withdrawn.

15 How much of a distance was there between the  
16 deck that you were working on and the deck that  
17 Mr. Iannuzzi was on?

18 A I guess about 20 feet down, 15 feet. I am  
19 not sure.

20 Q After you had that brief conversation with  
21 Mr. Iannuzzi did you pay any more attention to him?

22 A I was looking at him, that is all.

23 Q Did you spend your time looking at him all  
24 during that 8 to 13 minutes?

25 A I was down the hatch looking at him, that is

JQpa

Garofala-cross

157

all. I was waiting for the car to come over, that is all.

Q I understand you were waiting for the car to come. My question is during the 8 to 13 minutes that it took for the car to come did you spend all that time looking up 20 feet to Mr. Iannuzzi?

A I don't remember that.

Q About how long was that hatch opening from forward to aft end?

A How long it is?

Q Approximately.

A Close to 40 feet.

Q Mr. Iannuzzi's body after the accident was in the after end of that square, was it?

A A little on the after end, in the center of the hatch.

Q By center you mean mid-way between the --

A Fore and aft.

Q But a little bit aft of the center?

A Right. That is what I mean.

Q You had said to Mr. Kain that it was unsafe and improper for a longshoreman to stand in the plane of a draft, is that right?

A Right.



1 JQna  
2 Q Was Mr. Iannuzzi standing in the plane of  
3 a draft?

4 A Prior to -- when we loaded these cars --

5 Q Sir, I have a simple question. I think you  
6 can answer the question yes or no.

7 A He wasn't in the way when we loaded the  
8 small cars. When we were over to this big car then  
9 he was in the way.

10 Q Was Mr. Iannuzzi the one who was in charge  
11 of what was taking place at that hatch at that time?

12 A He was in that place at that time.

13 Q Was he in charge at that time?

14 A Right, yes.

15 Q And is it your testimony in this Court that  
16 he had put himself in the plane of the draft that was  
17 coming in at that time?

18 A He was in the way of the car.

19 Q Is it your testimony that that was not the  
20 proper or safe place for him to be?

21 A I don't think he should be there.

22 Q Did you tell him that?

23 A No, I didn't tell him that. He is a  
24 foreman, he should know.

25 THE COURT: Mr. Cohen, will you be going on to

1 something else?

2 MR. COHEN: Yes.

3 THE COURT: Let's take our mid-afternoon  
4 recess.

5 Ladies and gentlemen, we will be in recess  
6 for about ten minutes.

7 (Jury left the courtroom.)

8 THE COURT: Mr. Kain, I want to address  
9 myself to you. During your cross examination of this  
10 witness you asked him a question of whether or not  
11 there had been any other complaints that day and he  
12 gave you an answer no but he then volunteered that his  
13 gangway man had received one the previous day.

14 Given our colloquy on the prior witness  
15 I just wanted to be sure -- and you made no response to  
16 that -- I wanted to be sure that your leaving that  
17 in the record was not a matter of inadvertence during  
18 the course of your examination.

19 MR. KAIN: I should have asked your Honor  
20 to strike it from the record as not responsive.

21 THE COURT: I will do this. It's also  
22 hearsay. I will do that if there is a motion in the  
23 course of examining the man --

24 MR. KAIN: Unless I am disappointed by  
25



JQpa

Garofala-cross

160

1 Mr. Lory I believe he will have the gangway man here  
2 to testify. I would move, if your Honor please, at this  
3 time to strike it from the record.  
4

5 THE COURT: I will grant that motion and  
6 strike it. Do you want me to instruct the jury on  
7 that or leave it alone?

8 MR. KAIN: I don't think so, your Honor.

9 THE COURT: Very good.

10 MR. KAIN: While your Honor is here and I have  
11 other counsel, it seems to me just from where I sit  
12 that maybe this jury is having a little difficulty in  
13 getting a concept of precisely what a rig, boom rig,  
14 looks like. While we don't have any specific photographs,  
15 I do have in my office a mock-up of cargo booms which  
16 does not belong to me but which certainly is not scale  
17 or not the arrangement we have here, but if it's agreeable  
18 to your Honor and counsel I would be glad to arrange to  
19 have it here Tuesday so that it could be rigged so that  
20 a jury can see how a Burton boom and an up and down  
21 boom works and what a scooner guy is and what a working  
22 guy is. I only offer this as a suggestion.

23 THE COURT: As an aid to the Court and jury  
24 and we have had testimony about it and frankly it's the  
25 same thing as a model of a skull and the vertebrae so  
why not. I would be pleased to have you bring it.

JQDa

Garofala-cross

161

Mr. Lory, you would not object to that?

MR. LORY: I struggled enough this morning.

THE COURT: Good.

Mr. Cohen, do you agree?

MR. COHEN: Yes.

(Recess.)

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(In open court, jury present.)

Q Mr. Garofala, in this photograph, Exhibit D in evidence, that you wrote the word "platform" on and told us where the platform was and the ladder and showed us where the ladder was, the ladder that you have marked there, is that the ladder on which you say Mr. Iannuzzi was standing at the time of the accident?

A I don't know. It must have been because that is the only place there is a ladder.

Q Let me ask you the question again: Is that the ladder you say Mr. Iannuzzi was standing on at the time of the accident?

A Yes.

Q If Mr. Iannuzzi was standing on that ladder at the time of the accident he would have been perfectly visible and apparent to the man operating the winch controls, is that right?



JQpa

Garofala-cross

162

1  
2 MR. LORY: I object to that. He is asking  
3 this witness to conclude something that the winch man would  
4 have to say.

5 THE COURT: Yes.

6 MR. COHEN: I will withdraw the question.

7 Q Would there be anything interfering with the  
8 ability of the man operating the winches on that winch  
9 platform from seeing a man standing on that ladder  
10 that you say Mr. Iannuzzi was on?

11 MR. KAIN: If your Honor please, I have an  
12 objection. I believe the question should be was there,  
13 not would.

14 MR. LORY: I would object to the question in  
15 its entirety. This witness is not in a position to  
16 know.

17 THE COURT: This witness may or may not have  
18 been able to see between the man on the controls and  
19 Mr. Iannuzzi at the railing. If he could see between  
20 them he is in a position to testify as to whether  
21 there was anything between them. If we establish that  
22 then he may answer.

23 MR. COHEN: If he doesn't know he can tell  
24 us he doesn't know.

25 THE COURT: On that basis, go ahead.

JQpa

Garofala-cross

163

1 Q On this occasion, sir, was there anything  
2 blocking the winch operator from seeing a man who would  
3 be standing on that ladder that you say Mr. Iannuzzi  
4 was standing on at the time of the accident?  
5

6 A I couldn't see that.

7 Q You couldn't see?

8 A I couldn't see because there was cargo down  
9 below.

10 Q There was cargo down below?

11 A Right.

12 Q And that cargo down below prevented you from  
13 seeing whom?

14 A I couldn't see the winch man. Not where I was  
15 standing.

16 Q Where exactly was it that you were  
17 standing?

18 A I told you before, I was standing almost in  
19 the center of the hatch and there is cargo all the way  
20 up on both ends of the hatch and I don't think I was  
21 able to see the winch man up there.

22 Q You were standing in the center of the square  
23 of the hatch?

24 A There was only a small area left of the hatch  
25 because there is cargo in the forward and the aft.



JQpa

Garofala-cross

164

1  
2 Q Where were the other seven or eight men  
3 that were in your gang?

4 A They were down below with me.

5 Q Where?

6 A They are in the lockers fixing the cars,  
7 pushing the cars inside.

8 Q The lockers are in the wing area?

9 A Right.

10 Q You knew another car was coming down into  
11 the hatch, did you not?

12 A Yes.

13 Q Tell me this: When a draft of cargo is to  
14 come down into a hatch isn't it the correct safety  
15 practice for the longshoremen in that hatch to take  
16 themselves out of the square and go into the wing area?

17 A Yes.

18 Q And yet you say that you were standing  
19 smack in the center of the hatch knowing that this car  
20 was going to come down?

21 A I was talking to the man before the car come  
22 over.

23 Q That was 8 or 13 minutes before?

24 A What?

25 Q That was 8, 13 minutes before, wasn't it?

JQpa

Garofala-cross

165

A That was before the car come over.

Q After you spoke to him 8 to 13 minutes before this accident where did you go?

A Our usual procedure is to go under the wings when any cargo is coming out.

Q Your men were working in the lockers in the wing area getting the cars into proper position, is that right?

A That is the usual procedure.

Q After talking to Mr. Iannuzzi did you go into the lockers in the wing area to supervise your men --

A I don't remember that.

Q You don't remember?

A No.

Q Let me ask you this: During the 8 to 13 minutes between the time of your conversation with Mr. Iannuzzi and the time of the accident did you stand smack in the center of the hatch all that time?

A I am talking to Mr. Iannuzzi before the car come over.

Q All that time?

Let me ask you this: You talked to Mr. Iannuzzi and you told him you had room for one more car.



JQPa

Garofala-cross

166

1

2

A Right.

3

4

Q And the accident happened between 8 and 13 minutes later, is that right?

5

6

7

8

A I don't know the exact time. You are pressuring me on a certain time. I don't know the exact time. I don't know these things. All I know, the car came over and hit the man and he fell down.

9

10

Q I have a very simple question for you.

A Go ahead.

11

12

13

14

Q From the time you spoke to Mr. Iannuzzi and told him there was room for one more car, up until the time this accident happened did you yourself personally stand smack in the center of the hatch?

15

16

A I don't remember where I was standing after I got through talking to the man.

17

18

19

20

Q If you moved into the wing area or into the lockers to supervise your men who were pushing cars around there you wouldn't then be in a position to see Mr. Iannuzzi any more, would you?

21

22

A I wasn't inside there, I was outside like I told you.

23

24

25

Q Tell me again, as this car which you knew was coming in, did you continue staying in the square of the hatch even though it's against the safety practice

1 to stay there?

2 A As soon as I see the car coming over I get  
3 out of the way.

4 Q Did you see the car coming over?

5 A I saw the car coming over and I told  
6 Mr. Iannuzzi to watch out.

7 Q You told him to watch out?

8 A Right.

9 Q Where were you when you saw the car  
10 coming over and you told Mr. Iannuzzi to watch out?

11 A I was on the offshore side of the ship  
12 watching the car coming over.

13 Q This was a large, heavy car?

14 A Right.

15 Q Part of it struck Mr. Iannuzzi and you say  
16 you saw that?

17 A The car struck the man and he fell down the  
18 hold.

19 Q Was the farm equipment or tractors behind  
20 Mr. Iannuzzi?

21 A I know there was stuff on deck. Whether it  
22 was behind him or not, I don't know what part of the  
23 tractors were in back of him or the drums behind him.

24 Q What I am trying to find out is: Was his  
25 back protected by that farm equipment?



JQpa

Garofala-cross

168

1           A       That I couldn't tell you. All I know is  
2  
3 they had cargo on deck.

4           Q       What part of his body was struck by this heavy  
5 car?

6           A       The back and the neck, the back of the head.  
7 I know he got hit from the back. It happened so  
8 fast, I couldn't know for sure.

9           Q       You are telling us under oath that you  
10 definitely saw that happen, is that right?

11          A       Yes.

12          Q       The back of his head and neck was struck?

13          A       It hit him someplace in the back and I  
14 seen him come down.

15          Q       What did he do when you told him to watch  
16 out?

17          A       He tried to duck and it was too late.

18          Q       Did he duck at all?

19          A       He tried to.

20          Q       How far above the hatch coaming was his  
21 body -- withdrawn.

22                   What I am trying to find out is at about  
23 what point was the hatch coaming up against his body,  
24 how high up?

25               MR. LOY: Again I object. He is 20 feet

below. How can he possibly see?

THE COURT: If he can't see that is his answer.

Q Were you able to see?

A I saw just a part of his body, the top part, his head and shoulders, that is all I could see.

Q You also said that you had some conversation earlier that day with the winch operator, Mr. Coppola.

A He told me the winches weren't working properly.

Q Do you speak Italian?

A Yes.

Q What language did you speak to Mr. Coppola in?

A He speaks to me in Italian.

Q Was it his word that the winches weren't coinciding, is that the term he used?

A He told me --

THE COURT: Mr. Garofala, what word did Mr. Coppola use in describing to you the problem with the winches?

THE WITNESS: He told me the winches weren't working properly, call the official to put oil in the winches.

Q That is all he told you?



QQA

Garofala-cross

170

1

2

That is what he told me.

3

Q You testified to this Court and jury that

4

he said to you something about the winches not

5

coinciding.

6

A Yes, he told me that in Italian.

7

Q Was that your term or his term?

8

A That was his term.

9

Q He used the term coinciding?

10

A He used the term in Italian that they are not

11

working properly.

12

Q And you interpreted that to mean coinciding?

13

A Right.

14

Q If Mr. Coppola testified that this complaint

15

with the winch happened about 11:30, would that refresh

16

your memory as to what time it was?

17

A I don't remember whether it was the morning

18

or the afternoon. I think it was the afternoon, I am

19

not sure.

20

Q An ambulance came for Mr. Iannuzzi, did it

21

not?

22

A I don't know. I am down in the hold.

23

Q After this accident wasn't Mr. Iannuzzi

24

taken up out of the hold?

25

A Yes, that is right. I don't remember, it's

JQpa

Garofala-cross

171

so long ago. I don't remember everything.

Q Do you have trouble remembering that this injured man was taken out of the hold?

A No.

MR. LORY: Objection, isn't it argumentative?

THE COURT: I will allow it.

Q Do you remember that an ambulance came for him or is it too long ago?

A I think there was an ambulance that came.

Q Did you go in the ambulance with Mr. Iannuzzi to the hospital?

A No.

Q Did any of the men in your gang go in the ambulance to the hospital?

A I don't know.

MR. COHEN: I have nothing further, your Honor.

THE COURT: Mr. Lory, redirect.

MR. COHEN: I am sorry, one more question.

Q I believe you said that it was improper for Mr. Iannuzzi to stand where he was because he was in the plane of the draft, right?

A It isn't for me to say it's improper. He should know where to stand too.



JQ9a

Garofala-cross

172

1 JQ9a Garofala-cross 172  
2 Q You have been asked a question and you gave  
3 the answer. It is for you to say in this courtroom.

4 Would you tell us again, is it improper for  
5 him to stay where he was?

6 A It wasn't right for him to stay where he  
7 was.

8 Q Why is it improper for a man to stay in the  
9 plane of the draft as Mr. Iannuzzi did?

10 A He probably didn't know he was in the way  
11 of the draft. Maybe he didn't realize that he was.

12 Q I asked you why is it improper? What is the  
13 danger when a man stands in the plane of the draft?

14 A You are never supposed to stand under a  
15 draft. There is always a possibility something could  
16 happen.

17 Q And the plane of the draft is determined  
18 as to where the heads of the two booms are positioned,  
19 right?

20 A You asked me that question before.

21 Q I think Mr. Kain did. The plane of the  
22 draft is from the head of one boom to the head of the  
23 other boom?

24 A Right.

25 Q And the locations of the heads of the

JQpa

Garofala-cross/redirect

173

booms are obvious to anyone who looks?

A Yes.

Q You also talked before about it being unsafe and improper for carpenters to pass lumber down from one deck level to another by hand while longshoremen are working there.

Why is that dangerous?

A That is improper to do that because men are working down the hatch.

Q What is the danger?

A Some piece of wood is liable to fall and hit someone on the head or the shoulder.

MR. COHEN: Thank you very much.

REDIRECT EXAMINATION

BY MR. LORY:

Q Mr. Garofala, you told us that Mr. Iannuzzi was a hatch boss like yourself working this day as an assistant hatch boss, is that correct?

A Assistant foreman.

Q You are still a hatch boss, aren't you?

A Not today, no more. I am not a hatch boss today.

Q At any time during the course of this day did you see any carpenters while you were in the number three



JQpa

Garofala-redirect

174

1 hatch pass any lumber down into the hatch?

2 A No, I didn't see no one passing lumber down  
3 to the hatch.

4 Q You told us, Mr. Garofala, that there  
5 were places along the coaming on the weather deck of  
6 this particular hatch where there was a platform on  
7 either end and also a ladder in the center, isn't  
8 that so?

9 A Yes.

10 Q What are these ladder and platform used for?

11 A They are probably used to look over the  
12 coaming into the hatch, to talk to the men down  
13 below or to me as to where to stow this cargo.  
14 The only way you can talk to me down the hold is you  
15 have to either go on the ladder or step on an object  
16 to look down below.

17 Q Is it not the usual practice when you are  
18 loading a vessel that certain cargo is designated to  
19 be brought aboard and there comes a time when there  
20 is no room for this and you send it back?

21 A Right, yes.

22 MR. KAIN: I object to leading the  
23 witness.

24 MR. LLOY: This was a matter brought up on  
25

JQpa

Garofala-redirect

175

cross, your Honor.

THE COURT: I will allow that question.

Let's see where it goes. I take it he is directing his attention at some area of his testimony.

Go ahead.

Q Would it be fair to say that on this day, this last car that was brought aboard, the motions to bring it aboard would have been put in progress at the time that you were talking to Mr. Iannuzzi?

MR. KAIN: Objection.

THE COURT: I sustain the objection to that certainly on the grounds of form.

Q Mr. Garofala, how many cars were you told had to be brought aboard?

A As many as I can put in.

Q Did you tell Mr. Iannuzzi at any time how many you thought you could accomodate?

A No, I didn't.

Q Where Mr. Iannuzzi was, or where you saw him --

A I saw him standing in the middle of the hatch leaning over the coaming talking to me.

Q How long was the conversation that you had before the accident happened? How much time passed from



JQpa

Garofala-redirect

176

1 the time you started to talk to him until the time the  
2 accident happened?

3  
4 A Oh, about close to ten minutes or maybe more.

5 Q You were talking to him there for ten minutes  
6 and he was leaning over the hatch for ten minutes?

7 A I was talking to him prior to the car being  
8 over the hatch. You have to speak a little louder.

9 Q Mr. Garofala, Mr. Iannuzzi came up on the  
10 hatch coaming on that place where you said and he leaned  
11 over the hatch and he asked you, "Mr. Garofala, can we  
12 accomodate another car," isn't that so?

13 A And I told him, "Yes, we can have another  
14 car."

15 Q From that particular moment that you told  
16 him yes, how much time passed before he was struck by the  
17 car?

18 A I guess 12, 13 minutes, something like that.  
19 I was talking to him in the meantime and then the car  
20 came over.

21 Q What were you talking about?

22 A I guess about the work, about the car --

23 MR. KAIN: Objection.

24 THE COURT: I will allow it.

25 Q Assume, Mr. Garofala, that we have testimony

JQpa

Garofala-redirect

177

1 in this case that the car, this particular car  
2 that you saw, that you testify you saw strike Mr. Iannuzzi  
3 had not swooped, could it have passed overhead without  
4 coming into contact with him?  
5

6 THE COURT: I will sustain the objection to  
7 that.

8 Q This hatch you told us was about 40 foot  
9 long going fore and aft?

10 A Yes, I think it's something like that.

11 Q Considering the center of the hatch you  
12 told us also that there was cargo stored fore and  
13 aft?

14 A Right.

15 Q What available space was there remaining  
16 in the number three hatch of the 'tween deck at the  
17 time that the accident happened?

18 A We had enough space for a car to get in  
19 there.

20 Q Was that in the forward part of the hatch,  
21 the middle of the hatch or the after part?

22 A It was almost near the forward, in the  
23 center, mostly leaning towards the forward end.

24 Q That would be a little forward of the center  
25 portion of the hatch?



JQpa

Garofala-redirect

178

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A That is about it.

Q Were you standing in that particular area when you were talking to Mr. Iannuzzi?

A I was standing on the offshore side of the hatch and talking to him.

Q Were you closer to the locker doors on the offshore side of the hatch than you were to the center of the hatch at that particular time?

A I was standing between the coaming and the center, almost center, not quite. I don't recall too well but that is where I thought I was standing.

Q When you were talking to Mr. Iannuzzi, were you talking in a normal tone or were you talking with your voices raised?

A No, talking in normal tones.

Q It was quiet there, there was no noise?

A There was no hollering or screaming.

Q From where you were looking across the ship was Mr. Iannuzzi at the coaming at a place more or less directly across the ship from where you were?

A He was standing a little more aft. I don't remember too well. I know he was talking to me over the coaming. It was almost towards the middle.

Q I believe you loaded a few other cars before

JQpa

Garofala-redirect

179

1 this one, is that so?

2 A I think about three cars.

3 Q Bearing in mind where Mr. Iannuzzi was  
4 standing at the time that you were talking to him  
5 did those cars pass over that spot on the coaming?  
6

7 A I think they did.

8 Q How much of those cars passed over that spot,  
9 what portion of it?

10 A What?

11 Q What part of the car, how much of the  
12 car, a foot, two, three, whatever?

13 A About three feet away from that spot, two  
14 or three feet.

15 Q Mr. Garofala, I am going to ask you to do  
16 something for me because of something that you had  
17 earlier said. I would ask the Court's indulgence  
18 on this.

19 From this moment on let me know when the  
20 time is up from the time that you started talking to  
21 Mr. Iannuzzi until the accident happened because I know  
22 you weren't standing there with a watch and I want you  
23 to tell us so we can gauge on our watch how long you  
24 were talking to him before the accident happened.

25 When I tell you -- and Mr. Rain, you can look at my



1 watch with me --

2 MR. COHEN: I object to this procedure.

3 THE COURT: I think to do this in an estimated  
4 time of ten to thirteen minutes is inappropriate. I will  
5 sustain the objection.  
6

7 MR. LORY: No further questions, your  
8 Honor.

9 THE COURT: Any recross occasioned by this?

10 MR. KAIN: Not by me, your Honor.

11 THE COURT: Mr. Cohen?

12 MR. COHEN: No, sir.

13 THE COURT: You may step down.

14 (Witness excused.)

15 THE COURT: Mr. Lory, you have another  
16 witness, I assume?

17 MR. LORY: I have another witness  
18 who I can start or I can start reading depositions,  
19 however far you want to go.

20 THE COURT: Let's save the depositions  
21 for perhaps a more appropriate time for their use,  
22 if that meets with your order. Let's start with this  
23 witness.

24 MR. LORY: I call Mr. Scotto.  
25

FRANK SCOTTO, called as a  
witness by the plaintiff, having first  
been duly sworn, testified as follows:

## DIRECT EXAMINATION

BY MR. LORY:

Q Mr. Scotto, what is your present occupation?

A Longshoreman.

Q How long have you been a longshoreman?

A 1947.

Q Working as a longshoreman do you have any  
particular job as a longshoreman?

A No.

Q There are various categories of longshoremen  
jobwise, job titles. Are you a deck man, dock man,  
hold man?

A Deck and hold.

Q I call your attention to the year 1968.  
Who were you working for in 1968?

A ITO.

Q That is International Terminal Operating  
Company, isn't that so?

A Yes.

MR. COHEN: That is.

Q During the month of November of 1968 were you



JQpa

Scotto-direct

132

1 working for ITC?

2 A Yes.

3 Q You have to give me an answer of yes or no.

4 A Yes.

5 Q The reporter can't put down a grunt.

6 Were you a member of a regular gang in  
7 November of 1968?

8 A Yes, sir.

9 Q Whose gang were you a regular member of?  
10 Who was the hatch boss?

11 A Garofala.

12 Q How long had you been in Garofala's gang  
13 as of November of 1968?

14 A About eight years.

15 Q What was your job in that gang?

16 A Gangway man.

17 Q What are the duties of a gangway man?  
18 What does a gangway man do?

19 A Working.

20 Q All longshoremen do some work. How was  
21 the work that you do as a gangway man different from  
22 the work that the other people do as of the other longshoremen?

23 A I make a signal to pick up the drift.

24 Q Are you what is known as a deck man? You work  
25

JQpa

Scotto-direct

183

1 on deck?

2 A Yes, sir.

3 Q And you work together with two other men  
4 who operate the winches?

5 A Yes, sir.

6 Q And your job is to give them signals?

7 A Yes, sir.

8 Q When they can't see where the draft is when  
9 the draft is on the pier?

10 A Yes, sir.

11 Q Or where they can't see down in the hold?

12 A Yes, sir.

13 Q Because you are there and you can move  
14 around and look down and tell them whether to raise  
15 it or lower it?

16 A Yes, sir.

17 Q Were you doing this job in November of 1968?

18 A Yes, sir.

19 Q Do you know Mario Iannuzzi?

20 A Yes.

21 Q How long did you know Mario Iannuzzi?

22 A When I was a baby.

23 Q Before November 1968.

24 A When I was from the other side.  
25



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Q Did you come from the same town?

A Yes, sir.

Q Do you remember the date that Mario Iannuzzi had an accident?

A 1968.

Q Were you working on the same ship as he was when the accident happened?

A Yes, sir.

Q What hatch were you working on aboard that ship?

A Number three.

Q Do you remember the name of the ship?

A South African HUGUENOT.

Q Do you remember what time of day you started work on that day?

A 8:00 in the morning.

Q What were you doing, loading or discharging?

A Loading.

Q Did you tell me what hatch you were working at ?

A Number three.

Q The morning of the day that the accident happened, where were you putting cargo in the hatch?

A The morning?

JQpa

Scotto-direct

185

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Q Yes.

A Number three hatch.

Q What deck level?

A Down below.

Q Down below?

A Yes.

Q All the way down below or the 'tween deck?

A Down below, after one 'tween deck, change of port.

Q At any time during that day did the winch operator come to you with any complaints regarding the winches?

A That day?

Q Yes.

A Yes.

Q Which winches were you using that day, the forward end or the aft end?

A The forward end.

Q Do you remember what time it was that he came to you with any complaints about the winches at the forward end of number three of the South African HUGUENOT?

A I don't remember what time. Three times a day the guy told me the winch developed a little



1 trouble.

2 Q How many times did he tell you that day?

3 A Three times that day, I think.

4 Q When you received any of these complaints  
5 from the winch man, what did you do?

6 A I called the mate.

7 Q Did you have to go find the mate?

8 A Sure.

9 Q When you found the mate did he come over to  
10 fix it or did he send somebody over there?

11 A He sent somebody to fix, put some fluid in  
12 there, I don't know what it is.

13 Q Were you there when this somebody came  
14 in order to fix the winch?

15 A Yes, sir.

16 Q Did you see what this somebody did?

17 A He put oil inside, grease.

18 Q Did you see where he pumped the oil?

19 A On the winch. I was downstairs. Near the  
20 winch.

21 Q You could see the winch stanchions from where  
22 you were on the deck?

23 A Yes, sir.

24 Q And the work did not go ahead until after  
25

JQpa

Scotto-direct

187

he finished, isn't that so?

A Excuse me?

Q When he is working on the winches were you still moving cargo?

A No.

Q How many times during the course of the day of the accident did you have to call someone to do something with respect to the winches?

A The day?

Q How many times?

A Three times.

Q Was that all on the same day?

A The same day.

Q Did you work this ship the day before?

A Yes, sir.

Q Did you have any problems with the forward winches in number three the day before?

A All the time, yes.

MR. KAIN: I have an objection to that answer, if your Honor please, and also to the question. I have no objection to this witness testifying of the complaints he got but I submit to your Honor since he is not a winch operator he personally had no problems with the winches and I ask that that particular answer and



JQpa

Scotto-direct

138

question be stricken and the jury be instructed to disregard it.

THE COURT: Yes, and the jury will disregard it.

Q On the day before the accident happened did you receive any complaints from the winch men regarding the manner in which the forward winches at number three hatch were functioning?

A I don't understand that question.

Q On the day before the accident did the winchmen come to you and complain to you about the winches at number three hatch?

A Yes, sir.

Q We are talking about the day before.

A Yes.

Q How many times the day before did the winch men come to you to complain?

A About three times.

Q What did you do on that day after you received the complaint?

A I called the mate.

Q What happened after that?

A The mate come and somebody fix it. I don't know what they put, oil, grease.

1 Q Did they bring any equipment with him when  
2 they came to fix the winches?

3 A Some guy, I don't understand.

4 Q Did they bring any machinery?

5 A A pump, a pump.

6 Q Did you see them do anything with this pump?

7 A They pump something in the winch. I don't  
8 know what they do. They put oil in there.

9 Q Is that the place where you mentioned on  
10 top of the winch?

11 A That is right.

12 Q Were you present on board the ship at the  
13 time that something happened to Mr. Iannuzzi?

14 A Yes, sir.

15 Q What was your job? What job were you  
16 doing at that particular time?

17 A I was a gangway man. I signal the winch  
18 men.

19 Q Did there come a time when the longshoremen  
20 were loading automobiles into the upper 'tween deck or the  
21 shelter deck?

22 A Upper 'tween deck.

23 Q Where were they putting these automobiles?

24 A On the offshore side in the lockers.  
25



1 JQpa  
2 Q Do you remember how many cars you had to  
3 load?

4 A I don't remember for sure. I think it was  
5 three or four cars.

6 Q You knew you had to put three or four cars  
7 aboard?

8 A Yes, sir.

9 Q How many cars were loaded before the  
10 accident happened?

11 A Three.

12 Q Did the accident happen when the fourth  
13 car was coming aboard?

14 A Yes, sir.

15 Q Did there come a time when you gave a signal  
16 to the winch man to look up and bring up the fourth  
17 car, that the fourth car was hooked up at the pier?

18 A Yes, sir.

19 Q Do you remember what time of day that was?

20 A About 20 after 7, 7:30.

21 Q At that particular time was it still  
22 daylight or had the sun set?

23 A It was a little dark with the lights.

24 Q Did you in fact give any signals to the  
25 winch man to raise the fourth car off up the pier?

1 JQpa  
2 A Yes, sir.

3 Q Did the winch men raise that car up off the  
4 pier?

5 A Yes, sir.

6 Q From that particular point on when you saw  
7 the car was raised from the pier tell us what happened.

8 A When I told the winch man and Mr. Coppola  
9 to pick up the car I see the car go up about eight  
10 feet off the mast of the ship and when they pull the man --  
11 the car went first all the way down, fast.

12 Q Show us how the cargo moved.

13 A It went fast, like that.

14 Q Indicating a sweeping motion in a downward  
15 arc.

16 A I went myself down to protect myself and  
17 that is it.

18 Q Before this car was brought aboard did you  
19 have any conversation with Mario Iannuzzi?

20 A No.

21 Q Did you see Mario Iannuzzi before this  
22 car was brought aboard?

23 A I see him in the morning. He goes back  
24 and forth in the ship.

25 Q When you are working the cars did you see



1 him -- where did you see him?

2 A He was on top the mast there, the ladder  
3 of the ship.

4 Q What do you mean by that?

5 A I told you some questions I don't understand.

6 Q Let's take it easy and make it simple.

7 A Some questions I don't understand. I  
8 can scream to you who was on the ship, that is  
9 what I say.

10 Q This thing that you named, what does it do  
11 on the ship?

12 A What do you mean what it do?

13 Q You said the mast of the ship.

14 A A small ladder there, three feet.

15 Q What was this ladder against?

16 A Against the ship to go down the hold.

17 Q Mr. Scotto, what is the thing that they have  
18 around the hatch --

19 THE COURT: Mr. Lory, I think in the  
20 interest of this record I think we should go back to  
21 the point where you asked him what he was standing on  
22 when he was directing the cargo to come up and strike  
23 everything from that point and let's go forward again  
24 slowly, unless you gentlemen have any objection.  
25

1  
2 MR. COHEN: I was going to say this: I notice  
3 when Mr. Scotto testified on the deposition an interpreter  
4 was used and I think since we are having an interpreter  
5 come back on Tuesday in connection with Mr. Coppola,  
6 it might be fairer for everybody, including the  
7 witness, if we suspended with his testimony at this  
8 point and continue on through an interpreter.

9 THE COURT: Any objection?

10 MR. LORY: I don't object to this. I  
11 thought once we resolved the one word that he uses that  
12 there might be various interpretations of, perhaps  
13 we can go on.

14 THE COURT: I thought we had no problem  
15 up until the point where it got to where he was  
16 standing. From that point on the questions and answers  
17 came very fast and I thought there was some confusion.

18 Let us go forward, Mr. Lory, if we may, and  
19 see how the record proceeds.

20 MR. KAIN: If your Honor please, may  
21 I ask your Honor to ask the members of the jury whether  
22 they understand the witness? I have the same impression  
23 as Mr. Cohen does. I have some difficulty and in  
24 fairness to the witness and all parties here, I would  
25 ask that he did testify as an interpreter as he did in



JQpa

the original deposition.

THE COURT: Ladies and gentlemen, let me break this into two segments. Up to the point where there was testimony about where he was standing at the time he gives these signals to raise the cargo, did you have problem understanding him up to that point?

I gather from the nodding of heads that up to that point the jury understood the witness' testimony. I won't strike anything but, Mr. Lory, go forward from that point.

MR. LORY: I will have to go around to go forward, your Honor.

THE COURT: If any member of the jury feels that any question is not understandable to you we will deal with it at that time.

Q Mr. Scotto, is there something that is around the square of the hatch on the main deck?

THE COURT: Mr. Lory, let's ask him where he was standing when he was giving these signals. That is where the thing begins.

Q Where were you standing at the time that you gave the signal to raise this car up?

A Inshore side.

Q Was this on the weather deck?

1 JQpa  
2 A Yes, on deck.

3 Q Just before then did you see where  
4 Mario Iannuzzi was?

5 A No.

6 Q Did there come a time that you later saw  
7 Mr. Iannuzzi?

8 A I don't catch you now.

9 Q After this did you see Mr. Iannuzzi?

10 A After what?

11 THE COURT: After you gave the signal to  
12 raise this car did you see Mr. Iannuzzi?

13 THE WITNESS: Yes, sir.

14 Q When you saw Mr. Iannuzzi at this  
15 particular point in time where was he?

16 A He was on top of the hatch. I can't explain  
17 to you like that. I can't explain to you.

18 Q May I approach this in a different manner.

19 THE COURT: I take it the jury is having  
20 some problem.

21 JUROR #4: I am.

22 THE COURT: Mr. Cohen, maybe we better  
23 accept your suggestion, is that agreeable to everybody?

24 MR. LORY: Yes, your Honor.

25 MR. KAIN: Yes, sir.



JQpa

Scotto-direct

196

1 THE COURT: It's almost the hour that I was  
2 going to suspend anyway.

3 MR. COHEN: It works out perfectly.

4 THE COURT: We will suspend, ladies and  
5 gentlemen, until Tuesday morning at 10:00. You are  
6 excused. Do not speak among each other or at home or  
7 anywhere else about this case. I will see you Tuesday  
8 at 10:00.

9 (Jury left the courtroom.)

10 THE COURT: May the record show is now  
11 directed to appear Tuesday morning at 10:00 .

12 MR. KAIN: If your Honor please, I anticipate  
13 that in the course of this case I will offer some  
14 photographs with overlays that have measurements taken  
15 by the person who took the photographs. Both counsel are  
16 familiar with Mr. Johnson, the professional who took the  
17 photographs and I would like to know from counsel at this  
18 time, for the record, whether they are going to insist  
19 that I produce Mr. Johnson to testify to the veracity  
20 of the measurements on these or whether they are willing  
21 to concede the measurements as taken by Mr. Johnson.

22 THE COURT: Mr. Lory.

23 MR. LORY: I don't know Mr. Johnson. I  
24 had listed him as a possible witness.  
25

1 JQpa  
2 MR. KAIN: I am speaking of Carl Johnson,  
3 the photographer.

4 MR. LORY: I don't know him.

5 MR. KAIN: He lives in Connecticut and I don't  
6 want to delay the trial. If I have to have him here  
7 I will have him here.

8 MR. LORY: If I can see the item first I  
9 can make a determination. Without seeing  
10 it I am asked to approve a pig in a poke.

11 MR. COHEN: I will concede the measurements.

12 MR. LORY: I want to see what I am up  
13 against.

14 THE COURT: They are overlays of these  
15 photographs and I take it there are distances laid out  
16 over a black line.

17 MR. LORY: It would depend on what  
18 photograph, your Honor.

19 MR. KAIN: May I show you one so you have  
20 an idea what I am talking about.

21 MR. LORY: So we are clear on the record --

22 THE COURT: Have a look at it.

23 MR. KAIN: These are overlays and photographs  
24 that are here with measurements filled in.

25 MR. LORY: Any photograph without a person in



1 there as some of these photographs have I will not  
2 object to. Those where they have someone staged on the  
3 ladder, for example, I do object to.

4  
5 MR. KAIN: I am only talking about the  
6 measurements. If you want to object to somebody standing  
7 on the ladder that is something entirely apart. I am  
8 talking about the accuracy. Do you want Mr. Johnson to  
9 come in and testify that he actually measured this  
10 distance?

11 MR. LORY: No. If you will hear me out. I  
12 am not concerned with the overlay, I am concerned of  
13 what is under the overlay if the picture has a figure in  
14 there. If the figure is not there I will not object to  
15 the whole thing.

16 MR. KAIN: You mean a person?

17 THE COURT: I take it that these pictures as  
18 to which there are overlays, are pictures that are  
19 already in evidence or not?

20 MR. KAIN: I haven't put them all in, your  
21 Honor. What I did, in order to have distances, I had  
22 the photographer who took them measure them and place  
23 an overlay on them.

24 THE COURT: I understand.

25 MR. KAIN: Mr. Lory is objecting to some  
of the pictures I propose in evidence on the ground that

1  
2 somebody is standing in the picture or something of this  
3 sort. This is the type of overlay I am talking about.

4 Here is an example. I assume this is what  
5 you are talking about?

6 MR. LORY: Yes.

7 MR. KAIN: Somebody looking down a hatch?

8 MR. LORY: That is right.

9 THE COURT: Are any of the ones with the  
10 measurements involving this problem?

11 MR. KAIN: The stipulation I want from  
12 Mr. Lory has nothing to do with this problem.

13 THE COURT: Do any of the pictures as to  
14 which you have the overlays have this figure in them so  
15 we have to deal with the figure as well as the measurements?

16 MR. KAIN: I haven't discovered any.

17 Yes, there is.

18 MR. LORY: I object to that. We don't know  
19 whether the figure is the same height or anything else  
20 and that would have great bearing.

21 MR. KAIN: I am not representing it as the  
22 same height. I will make no allusions to the height  
23 of the gentleman in the picture if that is what is  
24 bothering you.

25 THE COURT: I take it, Mr. Lory, let's cross



1 JQpn

2 the figure when we come to it. I take it you have  
3 no objection whatsoever to the overlays with the  
4 measurements on it?

5 MR. LORY: These two or three I do not object  
6 to.

7 THE COURT: Even this fourth one with the  
8 figure in it insofar as I am addressing your attention  
9 to the distances.

10 MR. LORY: I have no objection to the  
11 markings with respect to distances.

12 THE COURT: That stipulation is now made  
13 by all counsel.

14 MR. LORY: Anyone without a figure that is  
15 an overlay I do not object to. Anyone with a figure that  
16 is an overlay I do object to.

17 THE COURT: Mr. Kain may be able to do  
18 something with the figures in those pictures and  
19 preserve his measurements. All I want to know is  
20 whether there is any objection to the measurements.

21 MR. LORY: No.

22 MR. KAIN: I don't know what I can do with  
23 that.

24 THE COURT: I don't know.

25 MR. KAIN: It seems to me this gentleman  
in the picture is one of the investigators who accompanied

JQpa

201

the photographer on board. I don't know what Mr. Lory feels is the significance of this gentleman standing here. He was standing here when the picture was taken. I think some of them show my back and Mr. Molanphy's.

THE COURT: His concern is that that may be a representation of the jury as to how Mr. Iannuzzi was standing when the car allegedly struck him.

MR. KAIN: I won't make any such contention.

MR. COHEN: I would object to it because I don't think he was standing there.

MR. KAIN: He was standing at the edge of the hatch, if your Honor please.

THE COURT: Can those measurements be transferred to another picture?

MR. KAIN: I don't believe so. Not by me, at least not in the time I have remaining. There is another one that shows pretty much the same. Again there is a gentleman standing on the ladder. There are other people standing in some of these pictures. I will represent to Mr. Lory and I will undertake to your Honor to make no allusions that the people standing here as representing what Mr. Iannuzzi was doing. That is not the purpose they happen to be standing there for.



JQpa

1  
2 THE COURT: For tonight I think it's  
3 sufficient that we have gotten the stipulation on the  
4 figures.

5 MR. KAIN: I wanted to know whether you  
6 wanted to bring this man in from Connecticut or not.

7 THE COURT: You do not.

8 (Trial adjourned to Tuesday, May 21, 1974  
9 at 10:00 a.m.)

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merf

Maria Iannuzzi

vs

South African Marine Corp

68 Civ 2829

vs

International Terminal Operating Co.

New York, New York  
May 21, 1974 - 10:00 a.m.

(Trial resumed.)

(In open court, jury present.)

MR. LORY: Does your Honor wish to proceed with  
the demonstration before I call the witness or shall I  
call the witness?

THE COURT: Why don't you go ahead with the  
witness at this point.

MR. LORY: May we have Mr. Coppola back.

G I U S E P P E C O P P O L A, resumed the stand  
and testified further (through interpreter) as  
follows:

THE CLERK: Mr. Coppola, you remain sworn.

THE COURT: Now, we were in the course of cross  
examination at some stage.

MR. KAIN: Would it be agreeable, your Honor,  
without demonstrating this model, may I use it in the  
course of my cross examination?



merf 2

THE COURT: Surely, you may. Absolutely.

MR. KAIN: Before I start, would your Honor point out to the jury that this model has no connection with this case; it is purely for demonstrative purposes.

THE COURT: Yes.

Ladies and gentlemen, this is not a replica of the vessel. This is, I take it, an arrangement of the factors as a demonstration to you of how the winching process works. I take it the factors are all identical, the vertical booms, the horizontal booms and the lines and the hooks and so on.

MR. KAIN: That's right.

THE COURT: And inasmuch as there is testimony in the record as to the existence of these and where they are located and how they are operated, this is to be used as an aid to your understanding of the factors that are involved in the lifting process and the lowering into the hold.

Go ahead, Mr. Kain. I think that probably satisfies it.

MR. LORY: If your Honor please, there are measurements on the model. Would your Honor advise the jury those measurements on the model have nothing to do with this case at all.

1 merf 3  
2 THE COURT: I said that. It isn't a question of  
3 the measurements, it is a question of the factors and the  
4 arrangement of the factors.

5 Go ahead, sir.

6 CROSS EXAMINATION

7 BY MR. KAIN (Continued):

8 Q Mr. Coppola, will you assume with me that this  
9 boom represents your up and down boom over the square of  
10 the hatch?

11 A Yes.

12 Q And will you also assume with me, Mr. Coppola,  
13 that this boom represents your Burton boom out over the pier?

14 A Yes, sir.

15 Q Will you further assume with me, Mr. Coppola,  
16 that this portion here represents No. 3 hatch?

17 A Yes.

18 Q And this is the housing between No. 2 and No. 3  
19 hatches?

20 A Yes.

21 Q Now, Mr. Coppola, when you were operating these  
22 winches, you told us, I think that you were standing  
23 approximately here (indicating) in this position in the  
24 center of this housing, is that correct?

25 A Yes, between the winches, the winches that



1  
2 were used to work at hatch No. 3.

3 MR. LORY: Excuse me, your Honor, may I respectfully  
4 suggest that the jurors at that end move up here, perhaps  
5 their view would be better.

6 THE COURT: Why don't you four ladies move  
7 into the second row all the way over.

8 Q On the Huguenot, on the day of this accident, Mr.  
9 Coppola, the winches were not located here, were they,  
10 weren't they located back here somewhere?

11 A No. If that is the Burton which works and is  
12 over on to the pier, and the other is the up and down, the  
13 hatch would be right in front of is here.

14 MR. LORY: Your Honor, I think they are ending  
15 up with a little bit of confusion. This rig as it now  
16 stands has the port boom as the inshore boom whereas in the  
17 Huguenot on this day it was the starboard boom.

18 THE COURT: Well, am I correct that the masts  
19 for these booms were forward of the hatch on this vessel?

20 MR. KAIN: Just the way it is now. This is  
21 the fore end of the ship, that's the side of the boom,  
22 that's the Burton boom.

23 THE COURT: That's the side that you had  
24 said. Unless there is some dispute about it, can we estab-  
25 lish as a fact that the winch drums were on the other side

merf 5

of those masts on the forward side of the masts.

MR. KAIN: I think we can, if your Honor please.

THE COURT: Mr. Lory, is there any question about that?

MR. LORY: No, your Honor.

THE COURT: Let's just establish that on the record, Mr. Kain.

MR. KAIN: All right, sir.

THE COURT: What you want to do is get to the lifting principles, as I understand.

MR. KAIN: What I am trying to establish with this witness is that the winch controls and I think counsel would agree with me are located along the forward end, or I should say the after end of this housing.

THE COURT: I think that has been established also.

Q The winch controls are roughly where this hook is; is that correct?

A Right in the center of the housing, yes.

Q And right towards the after edge of this housing, is that right?

A We were working forward, not aft.

Q This is No. 3 hatch, you were using the forward books, right?



merf 6

A Yes, sir.

Q And in working your winch controls you were facing in this direction, facing aft, were you not?

A Yes.

Q From where you were standing here at these winch controls, could you see down into this hatch?

A Yes.

Q In lowering cargo, on the cargo hook down into this hatch, did you have to have any signals from the gangway man?

A When you work all the way down to the lower hold, up until the area about three-quarters of the hatch, you could see but after that when you worked actually aft, underneath the winches then you would need a signal man.

Q Well, let me ask you particularly at the time of this accident, from where you were standing, could you see into the upper 'tween deck?

A Yes.

Q Could you see from where you were standing where, or that portion of the upper 'tween deck where you intended to load this car?

A Yes.

Q So that in putting this car that you were

1 attempting to load at the time of this accident, putting  
2 that in the 'tween deck you didn't need any signals  
3 from the gangway man, is that right?  
4

5 A We would need one when we took it up from the  
6 dock, yes. But from on the ship I could see.

7 Q Now, when you took it up from the dock, where  
8 did the gangway man stand, right here, next to the ship  
9 rail?

10 A Yes, he was in my direction facing my direction  
11 watching over on to the pier.

12 Q And he was giving you the signals, was he?

13 A Yes, sir.

14 Q And what kind of signals were they?

15 A With his hands he would go like this (indicating  
16 go ahead).

17 Q Go ahead on the winch?

18 A Yes. I was watching him, he would move his  
19 hand this way, indicating, and I would watch his hand.

20 MR. KAIN: With your Honor's permission,  
21 may I acquire a couple of winch operators here?

22 (Pause.)

23 Q Mr. Coppola, will you assume that this group of  
24 keys on that cargo hook represents the automobile you were  
25 bringing aboard from the dock?



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A Yes.

Q Now, from where you were standing at the winch controls here, when this car was placed on that cargo hook, you could not see the car, could you?

A No, I could not.

Q And the man who gave the signals was over here?

A The way the table is fixed now, the way the model is fixed now, that represents the ship, the side of the ship. If you put it on the other side -- because of the side of the ship I would not be able to see.

I would not see but the gangway man could see.

Q Will you assume now with respect to my other questions that this is the hatch square into the No. 3 hatch?

A Yes.

Q And this is the starboard or right side of the ship, the side next to the pier?

A Yes.

Q Now you could not see it when it was hooked on to the pier, the car, is that correct?

A No.

Q You got signals from the gangway man, did you, at that time?

A Yes.

1  
2 Q Now, if you know before this car was raised from  
3 the pier, was there a tag line attached to the car?

4 A Yes. Yes, there was one.

5 Q Just one or was there more than one?

6 A Two, one at the front and one at the rear.

7 Q And these tag lines were designed to keep, or  
8 they were intended to keep the car from swinging, is that  
9 correct?

10 A Yes, to steady the automobile, one on each  
11 side.

12 Q And would you tell me who handled these tag  
13 lines?

14 A To clarify your question, what you said before,  
15 sir, one heaving line I know was there for sure, the  
16 other one I do not remember if it was or was not there.  
17 One, I remember.

18 Q Do you remember one tag line but you are not sure  
19 there was more than one, is that correct?

20 A Yes.

21 Q Who handled the tag line that you remember being  
22 attached to this cargo line?

23 A When it was raised from the pier, it would be  
24 handled by one of the men who was on the pier. And then  
25 he would direct it up until it got over on to the ship



1 and then the gangway man would grab it and hold it.

2  
3 Q Well, if you will, please, Mr. Coppola, don't  
4 tell me what would be done, would you tell me what was  
5 done on this particular occasion?

6 A You mean when we lifted up the car?

7 Q When you brought the car up, what did you do  
8 with the tag line?

9 A I raised the car. I received the signal from  
10 the gangway man.

11 Q What was done with the tag line when you raised  
12 the car from the pier?

13 A The man who was on the pier has it in his hands  
14 and he directs the automobile.

15 Q Did there come sometime in this operation -- did  
16 there come a point when the man on the pier passed the tag  
17 line or let the tag line go?

18 A The way it is now, the way it stands at the  
19 side of the vessel, as yet they could not be able to grab  
20 it.

21 Q Is this the way it was brought up and Burtoned  
22 across?

23 A Yes.

24 Q You brought this up on the Burton boom that's  
25 what you brought it up on the pier on?

1           A     The way they are in operation now you have to  
2  
3     use both of them, otherwise you can't work.

4           Q     When you hooked on to this car on the pier,  
5     the weight of this car was directly under the head of your  
6     Burton boom, is that right?

7           A     Yes, sir.

8           Q     And when it was raised, it was raised by your  
9     Burton boom, is that right?

10          A     Yes.

11          Q     Now, before you brought it across the deck, how  
12     high above the ship's rail, inshore rail, did you raise  
13     this car, approximately?

14          A     Five or six feet from the railing of the vessel.

15          Q     That's from the bottom of the car to the rail?

16          A     Yes.

17          Q     Now, at that point it was necessary for you to  
18     slack your Burton fall and take in on your up and down fall,  
19     in order to bring it across the deck to the hatch square,  
20     was it not?

21          A     Yes. Take the strain with the up and down first.

22          Q     Take the strain with this one, slack this one,  
23     is that correct?

24          A     Yes, sir.

25          Q     I'm sorry, let me repeat this. Take the strain



1 merf 12

Coppola-cross

213

2 with the up and down fall, slack the Burton fall, is  
3 that correct?

4 A Yes.

5 Q And you do this simultaneously, don't you, you  
6 don't take in all the strain on your up and down before  
7 you start to slacken your Burton, you slacken and you take  
8 in at the same time, don't you?

9 A Exactly, yes.

10 Q And as you stand facing this hatch square,  
11 your Burton fall control is in your left hand, was it, and  
12 your up and down in your right, is that correct?

13 A Working this way the left would be the up and  
14 down.

15 Q The left would be your up and down?

16 A As I was -- let's say that this is my position.  
17 This is the pier (indicating right).

18 That's the Burton, (indicating), and this is the  
19 up and down on the left. But the way the model is  
20 there, it would be on my left. The way it is there, the  
21 Burton would come to the left and the up and down would be  
22 on the right, if I position myself that way.

23 Q That would be facing the after end of the ship.

24 A (No answer.)

25 Q Assuming the pier is over there and that's the

1 merf 13  
2 Burton boom, the control for your Burton boom was in your  
3 left hand, is that correct, standing here and looking this  
4 way?

5 A The Burton on the left and the up and down  
6 on the right. This way.

7 Q So that in moving this car or Burtoning this car  
8 across this deck, you were slacking off with your Burton  
9 fall, is that correct?

10 A Yes.

11 Q And to slack off with your Burton fall, you had  
12 to move the control away from you?

13 A Yes, to be placed in the position, a slacking  
14 position.

15 Q When both winches were stopped, these control  
16 levers were straight up and down, weren't they?

17 A Yes. When they are stopped you have to put them  
18 in the center, standing.

19 Q Straight up and down?

20 A Yes.

21 Q When they are straight up and down, both  
22 stopped to lower you push the lever away from you, to raise  
23 you pull the lever toward you, is that correct?

24 A Forward and backwards, yes.

25 Q So that in this particular evening on the



merf 14

1 Huguenot when you were trying to bring this car across,  
2 just before the accident, you were pushing the control  
3 lever away from you to slack your Burton fall and you  
4 were bringing the control lever for it up and down towards  
5 you to take in on your up and down fall, is that correct?  
6

7 MR. LORY: I am going to object, your Honor.  
8 The witness' testimony that he took the strain on the up  
9 and down first and then slacked off. Mr. Kain has it in  
10 the reverse sequence which would cause a different result.

11 THE COURT: This is cross examination.

12 Go ahead, Mr. Kain.

13 MR. KAIN: I thought the witness agreed with  
14 me they both worked together.

15 THE COURT: We will arrive at the fact, I am  
16 sure. Go ahead.

17 Q Were you operating both the winches simultaneously  
18 when you were working this car across the deck?

19 A Yes, sir.

20 Q And that meant to bring it across the deck,  
21 that you had to run both winches at the same time, isn't  
22 that so?

23 A Yes, sir.

24 Q Now, these two winch controls you told us the  
25 other day, they didn't have any positions like

1                   merf 15  
2                   electrical winches, did they?

3                   A     No.

4                   Q     And in order to know how fast this car was  
5                   coming across the deck, you had to look at it with your eye  
6                   to gauge it, didn't you?

7                   A     Yes. You have to watch the draft that you are  
8                   bringing on board, yes.

9                   Q     And when you are watching the draft, you can  
10                  tell by watching the draft that you should slow or speed  
11                  up on either one of these winch controls, is that not so?

12                  A     Yes. That is a skill which we have. We look  
13                  at the draft and we can tell as we are bringing it on.

14                  Q     If you remember, when you started to bring this  
15                  car above the deck, was it taking line -- was there any  
16                  strain on it, or was it just hanging loose from the car?

17                  A     You mean by the taking line for the up and down?

18                  Q     I mean the taking line that I understood  
19                  you to say was on the car when you raised it from the pier?

20                  A     Yes, in that position the gangway man had already  
21                  grabbed it.

22                  Q     He had hold of it.

23                  A     Yes, the way -- yes, he had it and the way it is  
24                  now, over the hatch, he had already passed it down to  
25                  the man below. He couldn't hold it any more.



merf 16

Coppola-cross

217

1  
2 Q Well, let me go back to the evening of this  
3 accident, Mr. Coppola. At some time I believe you testified  
4 the other day, that at some in this operation, you experienced  
5 trouble with these winches, is that correct?

6 A The night that the accident occurred?

7 Q Didn't you testify the other day that at some  
8 point in the operation of bringing this cargo aboard,  
9 just before the accident, that you experienced some  
10 trouble with these cargo winches, these two winches at  
11 No. 2 hatch?

12 A You mean with the control? The control that was  
13 hard?

14 Q All right, with the control. You had some  
15 difficulty with these controls while you were bringing  
16 this car aboard just before Mr. Iannuzzi's accident, is  
17 that correct?

18 A No. No, I believe not.

19 Q At the time of Mr. Iannuzzi's accident, did  
20 you tell us the other day there was a car on this cargo  
21 hook? Did you tell us that at the time the accident  
22 happened?

23 A Yes, we took a car.

24 Q And you actually had this car on the cargo  
25 hook where that bunch of keys are?

1  
2 A Yes.

3 Q At the time you say Mr. Iannuzzi's accident  
4 happened, isn't that so?

5 A Yes.

6 Q At some time, between the time the car was  
7 hooked on on the pier, and the time of Mr. Iannuzzi's  
8 accident as you described it to us the other day, did  
9 you have any trouble with the winch controls that you  
10 were operating?

11 A Before this happened, no.

12 Q Well, let me take it step by step. You hooked  
13 this car on to the cargo hook on the pier, is that correct?

14 A Yes.

15 Q And after you hooked it on, you raised it on this  
16 Burton boom just as he is doing it now, is that correct?

17 A Yes.

18 Q And in order to raise it where it is now, you  
19 had to move this winch control towards you for the Burton  
20 boom, isn't that so?

21 A Yes.

22 Q Now, did you, up to this point, from the time  
23 you hooked on, on the pier till you raised the car to  
24 approximately that position, did you have any trouble  
25 with your winch control for your Burton winch?



1 merf 18  
2 A No, raising it the way it is now from shore,  
3 all I did was take the strain and I raised it at the  
4 height that it is at now.

5 Q And you had no trouble with your Burton winch  
6 control up to that point, did you?

7 A No, only that before the car was raised from  
8 the pier, in manipulating the lever, it was somewhat  
9 hard, but after the car was raised, it was all right and  
10 it started to raise up.

11 Q The lever was hard to operate when you moved it  
12 up to there, is that correct?

13 A Yes.

14 Q Now, what did you do next, did you take a strain  
15 on your up and down cargo fall, on this wire (indicating)?

16 A I raised it up more, more.

17 Q So it was five or six feet above the deck, is  
18 that correct?

19 A Yes, sir.

20 Q I'm sorry, five or six feet above the ship's  
21 rail or the bulwark of No. 3?

22 A From the bulwark of the ship, yes.

23 Q That's from the top of the bulwark to the bottom  
24 of the car was five or six feet, is that correct?

25 A Five or six feet from the bottom of the car.

merf 19

I don't look at the top of the car, I look underneath.

Q I said from the top of the bulwark or the ship's rail to the bottom of the car, you had a distance of five or six feet, is that right?

A Yes, sir.

Q Now, at this point, did you then take a strain on your up and down fall?

A It's already -- the strain is already taken as it is now.

Q All right. You took a strain on this one and now to move it across the deck, you had to take a strain on this fall and slack off this fall at the same time, did you not?

A Yes, sir.

Q Now, at some point, Mr. Coppola, while you were bringing this car across this deck, did you have further trouble with your winch controls?

A No, the way it is now, before the accident happened the car has to be somewhat further out.

Q How far out, further out?

A Hold it.

Q Is that about where the car was at the time you had trouble with your winch controls?

A Yes. The way it is now, the strain is on both



merf 20

of them.

Q And that's roughly above the ship's bulwark or rail, is that correct?

A Yes, always five or six feet. That's what I said.

Q At a height of five or six feet.

Now, what trouble did you have with your winch controls when the car got in this position?

A The controls, the way the cargo is now, it is traveling. I don't stop any more. I am bringing the car in.

Q Well, my point is, you say at approximately this position, I stopped it just so you can tell us what happened, that at approximately this position, you had further trouble with your winch controls. I'd like you to tell me what trouble you had with your winch controls when the car reached the position where it is as represented by those keys?

A Yes, the way the draft is now, I am continuing to bring the draft in. When I started to slacken on the Burton, and to take the strain on the up and down, I became aware that the Burton slackened off all at once. Then I became aware of it and I put the lever of the up and down all the way back, but the up and down didn't quite hold it, slackening all at once, and the up and down

merf 21

Coppola-cross

222

not being able to hold it, being able to hold it, and that's the way it stopped in the middle of the hatch.

Q Well, let me see if I understand you correctly. You say at this point when you attempted to slack this Burton fall, it let go all at once, is that right?

A Yes.

Q And at the same time although you attempted to take in on this fall, it didn't take in, is that correct?

A I put the entire control all the way down.

Q That's the hoisting speed on your up and down you put to full speed, is that correct?

A All the way down.

Q And it had no affect on this, I am referring now to the up and down fall? When you put it all the way to top speed, it still didn't take in on the up and down fall?

A No.

Q And at the same time, this fall let go completely, is that correct?

A I didn't have it all slackened, just a little bit that I had it slackened.

However it slackened all.

Q When this up -- when this Burton fall you say let go completely, did you put your control handle back to



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the neutral or stop position?

A I don't remember now but I think yes.

Q Even though you had it in a stop position, this car -- this car swung right down here across there, is that correct?

A No, somewhat higher.

Q All right, let's take it a little higher.

(Indicating)

What I want to know is the path this car took, Mr. Coppola. Is it your testimony that this fall let go, that the car swung across the deck in a downward arc to the center of the hatch, is that what it did?

A No, but it didn't go down. This would be the hatch and I stopped in this position (indicating).

Q Let me put it back.

I wonder if I might ask the witness, your Honor, to come down to the model and I will demonstrate it.

(Witness leaves stand.)

Now, would you give it slack on the Burton fall. I want you to hold it in your hand and demonstrate if you will how it traveled. You are free to use your hand.

Do you want to describe the arc using your hand on it?

A The car has to go of necessity the way the up and

1 merf

2 down is going. It can't go this way or that way.

3 Q All right, go ahead.

4 A Raise it. You see at this point, that's what it  
5 did.

6 Q It just swung across, is that correct?

7 A Yes.

8 No, it didn't touch.

9 It was higher.

10 Q Did it swing across to the other side of the  
11 hatch as it did here?

12 A No.

13 For example, that's the way it stopped.

14 Q Did it ever go past the center of this hatch  
15 when it swung down or did it stop like this? In other  
16 words, did it go back like this or did it just stop when  
17 it got to the center?

18 A It went like this and then it came back and it  
19 was stopped.

20 Q How many times did it swing back and forth before  
21 it stopped, approximately?

22 A A few times.

23 Q Now, when this happened, when this car swung  
24 down, did any of these cargo falls break, either the Burton  
25 or the up and down?



merf 24

A No, nothing broke.

(Witness resumes stand.)

Q Now after this accident happened, was this car in the position this bunch of keys is now over the square of the hatch?

A Yes, a little bit more over to the strain of the up and down.

Q Like this?

A More. The strain was all on the up and down.

Q Like it is now, with the slack in the Burton fall and the strain on the up and down, is that correct?

A Just like that in a way that the Burton no longer held it, the up and down held it.

Q While the car was going across the deck, what did you do with the controls, if anything?

A The way it stopped now or when I --

Q No, when it was swinging down across the deck did you do anything with your winch controls?

A Yes, with the up and down I tried to raise it so that it would no longer touch the bulwark.

Q Did your control handles move when you tried to raise it?

A The one on the up and down, yes.

Q How about the one on the Burton, this one?

1           A     The Burton, which was completely slackened,  
2  
3     then tried slowly to raise it, and as it started to turn  
4     slowly, I put the strain on the Burton and that's the way  
5     I took the car back on to the dock.

6           Q     Well, you are getting ahead of me, Mr. Coppola.  
7     When this car started to swing, when you noticed it starting  
8     to swing, you said, if I remember correctly, you just said  
9     that you couldn't control this Burton fall, is that  
10    correct?

11          A     When it slackened off all at once, yes.

12          Q     And when it slackened off all at once, did you  
13     have your lever in the lowering position, your lever for  
14     the Burton falls?

15          A     No, the position that I slackened, before I had  
16     taken the strain, the little that you have to take slack  
17     on when you take the strain with the up and down, it slackened  
18     more, it slackened more than I had to slacken off. It  
19     couldn't hold any more.

20          Q     You didn't answer my question, Mr. Coppola.

21                At the exact time that you say this car started  
22     to run away from you, did you have your lever for your  
23     Burton winch pushed forward, stopped, or hoisting?

24          A     I was slackening off and when I saw it making  
25     that motion I then put it in the center, and I tried



1  
2 to hold it.

3 Q So if I understand you correctly, you started  
4 to Burton it across the deck, you had it in the lowering  
5 or the slacking position, it started to run away from you,  
6 and you put it back into the neutral, the up and down or  
7 stop position, is that correct?

8 A Yes.

9 Q And at the same time you moved your up and down  
10 control lever to the full hoisting position, pulled it  
11 as far toward you as you could, is that correct?

12 A Yes.

13 Q And neither of these measures worked, it kept on  
14 swinging, is that correct?

15 A If I slackened this one, the more that I had  
16 to slacken it off and with the other one to raise it --

17 Q That's not what I am asking you, Mr. Coppola --  
18 will you listen to my question. I am asking you when it  
19 started to go you said you put this back; when I say this,  
20 I mean your Burton winch control in the neutral or stop  
21 position, is that correct?

22 A Yes.

23 Q And at the same time you moved your lever for the  
24 up and down winch control all the way towards you as far  
25 as it would go to the full hoisting or the full tightening

merf 27

Coppola-cross

228

position, is that right?

A Yes, backward.

Q And with this lever, your Burton winch control lever and stop and your up and down lever in full hoisting, nevertheless this car continued to go, is that correct?

A When the control is placed in the stop position, and it continues to slacken, the breaks don't hold any more, that's all.

Q Listen to my question. I just want to know, if you can tell me, Mr. Coppola, when you had these levers in the two positions I have described, did the car nevertheless continue to come down with this fall slacking and this fall not taking the strain?

A Yes, I raised the car and it went that way twice.

Q Now, as it started to swing down like this (indicating) did you do anything with the foot brake on your winch controls?

A These brakes I want to tell you, they weren't working either. We never used the brakes because the brakes were stiff. The whole ship.

MR. KAIN: May I ask that the witness' answer be stricken as not responsive and the jury be told to disregard it.

THE COURT: Mr. Witness, the answer will be



1 stricken and the jury will disregard it.

2 Mr. Coppola, will you please confine yourself  
3 to Mr. Kain's questions precisely.

4 Q What I wish to know, Mr. Coppola, if you can tell  
5 me, did you do anything while this car was swinging down  
6 in this arc you described for us, what if anything did you  
7 do with the foot brakes on the winch controls?  
8

9 A I didn't do anything because when this incident  
10 occurred I didn't have a year's time, it was a sudden thing.

11 Q Could you tell me, Mr. Coppola, what caused this  
12 car to stop; why didn't this continue to slack?

13 A Where else could it have gone? The up and down  
14 has the strain.

15 Q So it fell until the strain was taken by the  
16 up and down and that's where it stayed, is that right?

17 A Yes. Yes, with the strain on the up and down.  
18 The Burton was slackened.

19 Q Now, at the time of this accident, did you have  
20 any trouble with these winch controls operating them,  
21 moving them?

22 A No trouble. The only trouble is that the Burton  
23 slackened all at once.

24 Q But you had no trouble moving them, is that  
25 correct?

1  
2 A The control of the Burton, when it slackened  
3 off that way, it came fast, like as if it wasn't holding  
4 anything, empty.

5 Q Now, my question is, Mr. Coppola, did you personally  
6 have any trouble moving these winch control levers at the time  
7 of this accident?

8 A No.

9 Q Now, you told us the other day that you had had  
10 trouble, I think you said at 11:00 or 11:30 that morning,  
11 moving these winch control levers, is that correct?

12 A Yes, sir.

13 Q And did you tell us that you complained about the  
14 difficulty you had in moving these levers and it was  
15 reported to somebody on the ship and somebody on the ship  
16 made repairs to these winch control levers, is that  
17 correct?

18 A Yes. The officer came and he put oil in it.

19 Q Were you present when he came and put oil into  
20 these winch controls?

21 A When the officer comes to put the oil in, it is  
22 a question of a five or ten minute -- five or ten minutes.  
23 I then move away, I don't watch them, I go over to the side  
24 and I smoke a cigarette.

25 Q Did you watch him on this particular occasion?



merf 30

Did you see the officer put the oil into the winch controls?

A Yes. Not nearby but over there I saw that he put it oil in.

Q You saw him put the oil in?

A Yes.

Q Did you see him do anything else other than put this oil into there?

A He put in oil and then he takes the lever, the control, and works it back and forth this way (indicating) and underneath the control there is another piece of apparatus which he swings back and forth. That's his job.

Q When you say he went this way, are you indicating he was working the winch controls after he put this oil in?

A Yes.

At the time that he was putting in the oil he was also doing this work.

Q And at the time of this complaint, the reason you complained about these winch controls at that time is that they were very hard to operate, is that correct?

A Yes, sir.

Q And that's-the only complaint you were having with these winch controls, that these handles were hard to operate, is that it?

merf 31

A When, at the time of the accident or before or after?

Q At the time of your complaint at 11:30 in the morning.

A Yes.

Q Now, after this officer or this person from the ship you say put this oil into these winch controls, did that remedy or take care of the situation that you had with these winch controls?

A Yes.

Q And you had no further trouble with these winch controls until the time of this accident, is that your testimony?

A Yes.

Q Now, at the time just before this accident, when you were bringing this car up from the pier on this Burton fall, where was Mr. Iannuzzi?

A I did not see him.

Q Were there lights on on deck in this area from the mast head, cargo lights?

A Yes.

Q So you didn't have any trouble seeing around the deck, did you?

A No, I can see because there were lights.



1  
2 Q There were lights.

3 Now, other than -- incidentally, who was your  
4 gangway man at this time?

5 A Scotto.

6 Q How many deck men were on deck -- when I say  
7 deck men, I mean deck men and your gang of almost, how  
8 many deck men were on deck when you started to bring this  
9 car on board?

10 A Two, I was at the winch and Scotto who was at  
11 the gangway.

12 Q And how many deck men were there in your gang  
13 when you started to work that morning?

14 A Three.

15 Q Where was the other deck man at the time of this  
16 accident, if you know?

17 A I do not know. I am working. I don't know where  
18 he goes. Maybe he was smoking a cigarette, he was off.

19 Q He wasn't at the hatch, in other words?

20 A No.

21 Q Did you see anybody else on deck at the time  
22 of this accident other than Mr. Scotto and the gangway man?

23 A There was someone else but not near where we were.  
24 There are other people but I don't look at the people.  
25 Some people come and some people go.

merf 33

Coppola-cross

234

Q Did you at any time see Mr. Iannuzzi on deck before you say this accident happened?

A Yes. He came before the car was to be raised. This is where the winches are and in front of me is the hatch, and he came actually underneath where I was.

Q You mean down in here somewhere?

A On and around the coaming, its winches are here and he is on deck, and I asked him how many cars were going to be brought aboard.

Q Mr. Coppola, is it your testimony that this represents Mr. Iannuzzi, that he was somewhere in this area between the forward hatch coaming at No. 3 and this house where the winches are?

A Would you permit me to come down there, Mr. Kain?

Q Yes.

(Witness leaves stand.)

Q Would you put that little bottle approximately where you say Mr. Iannuzzi was when you say you saw him?

A These are the winches, okay? This is the coaming from the hatch. Iannuzzi came over here.

Q Would you put that little bottle where you say he came?

(Witness places bottle.)



merf 34

Coppola-cross

235

1           A     There was a ladder there. And from up where I  
2  
3 was I asked how many cars were they going to take aboard?  
4 And he said to me there were still about two or three  
5 cars.

6                     And Scotto was over here --

7           Q     I am sorry, will you resume the stand, Mr. Coppola?

8                     MR. COHEN: Your Honor, may we mark with a  
9 making crayon the spot underneath the bottle?

10                    THE COURT: This isn't going to be something  
11 that is transmittable to the jury when it begins deliberations.

12                    MR. COHEN: No, but if that bottle is moved I  
13 think it should be marked to indicate the spot where  
14 this witness indicates it to be.

15                    THE COURT: All right.

16                    MR. LORY: May we have a statement on the record  
17 since this is not an exhibit in the trial as to where  
18 generally the mark is with respect to the starboard  
19 side of the vessel? Will counsel agree that it is at  
20 the corner of the starboard side of the hatch?

21                    MR. KAIN: Forward starboard corner of the hatch  
22 coaming of No. 3 hatch.

23           Q     Now, after you spoke to Mr. Scotto -- I'm sorry,  
24 Mr. Iannuzzi -- while he was standing here at that point,  
25 did he stay there?

merf 35

Coppola-cross

236

A I left him there. Then I got the order to lift up the car.

Q Did you see Mr. Iannuzzi again at any time before that accident?

A No, I didn't see him any more.

Q The next time you saw him was when he was down in the upper 'tween deck down in the hatch, is that correct?

A I didn't even see him there. I was watching the draft, the car.

Q And when you brought this car across the deck just before this accident, you didn't see him either, is that correct?

A No, but the car started to run and then I was trying to check it, control it.

Q After the accident, about how high above the coaming was this car that was on the cargo hook?

A Five or six feet from the coaming in such a way that it did not touch anywhere.

Q Was it five or six feet from the top of the coaming to the bottom of the car?

A Yes.

Q Now, after the accident happened, what if anything was done with this car that was on this cargo hook?

A I took it over slowly on to the Burton up



Merf 36

Coppola-cross

237

1 until the time I brought it down on to the dock.

2 Q Let me follow you for just a minute with that,  
3 Mr. Coppola. How long after this accident did you put  
4 the car over on the dock?  
5

6 A When I heard those men yelling, shouting, I  
7 started to raise it and then took the car over and down  
8 to the dock.

9 Q So that's immediately after the accident happened,  
10 is that right?

11 A Yes, it was a question of seconds, of minutes,  
12 because as yet no one knew what had fallen.

13 Q Now in order to get this car over on to the dock  
14 immediately after this accident, you had to slack your up  
15 and down fall, this fall, didn't you?

16 A To raise the Burton slowly and to slacken the  
17 other one slowly.

18 Q So in getting it over to the dock, you had to  
19 pull your Burton control lever towards you and push your up  
20 and down control lever away from you, is that right?

21 A I don't understand you. All I did is with one  
22 you raise and with the other you slacken.

23 Q I say in putting this car over on to the dock  
24 from where it was hanging on the up and down fall, you had  
25 to slack your up and down fall, didn't you, and take

merf 37

Coppola-cross

238

in on your Burton fall, isn't that correct?

A Yes.

Q And when you got it over under this Burton fall, I'm sorry, under the Burton boom, you had to slack this Burton fall to lower it to the dock, is that right?

A Yes.

Q Is that what you did in putting the car over on to the dock that night right after this accident?

A Yes.

Q And you were able to operate the winches in doing that, is that correct?

A The lever of the Burton, when I started to raise, and first it did not move, and then slowly, it started to lift, and that's the way I took the car over.

Q But you were able to put it on to the pier, is that correct?

A Yes.

Q Did you have trouble with these winch controls while you were putting it over on to the pier?

A The trouble that I had was that before, as soon as I put it in position, it would lift. Instead I had to move the control further down in order to move it, raise it, then normal.

Q Did you have trouble with both winch controls when you were putting the car over on to the pier?



1

2

A No. The up and down, no.

3

Q Just with the Burton control, is that correct?

4

A Yes, sir.

5

6

Q Now, after the car was put over on to the pier, what if anything did the longshoremen do then with the cargo hook?

7

8

A They took the hook off underneath the apparatus

9

that is used to hook on the car, and they took -- I

10

don't know exactly now whether it was a pallet or a basket, as we call it, to put a person inside of it.

11

12

Q Would you tell his Honor and the ladies and gentlemen of the jury, Mr. Coppola, what you mean by a pallet?

13

14

A A pallet is something which is used to put cargo on top of it.

15

16

Q What is it made out of?

17

A Wood.

18

Q Is the wooden slats made into a platform?

19

A Yes, wooden boards with three pieces that run across this way with other boards across.

20

21

Q And that is used in loading and in discharging cargo, is that correct?

22

23

A Yes, sir.

24

25

Q And did you just tell me that you didn't remember whether the longshoremen after this car had been placed

1                   merf 39  
2                   on the dock put a pallet on the cargo hook or whether they  
3                   put a basket on the cargo hook?

4                   A       Yes.

5                   THE COURT: Mr. Kain, would this be as good a  
6                   time as any to recess?

7                   MR. KAIN: Yes.

8                   THE COURT: All right, ladies and gentlemen,  
9                   we will take our mid-morning recess.

10                  (Recess.)

11                  (In open court, jury present.)

12                  BY MR. KAIN:

13                  Q       Now, Mr. Coppola, going back to after you put  
14                  this car up on to the pier, after the accident, you say  
15                  you then took either a pallet or a basket stretcher  
16                  and put it on the cargo hook, is that right?

17                  A       Yes.

18                  Q       And then what did you do with this pallet  
19                  or cargo hook, did you put it down in the hatch where  
20                  Mr. Iannuzzi was?

21                  A       Yes.

22                  Q       And in order to do this, you had to again  
23                  repeat this process of taking it up on this Burton fall,  
24                  moving it across the deck and lowering it down into the  
25                  'tween deck, is that right?



merf 40

1  
2 A Yes, slowly, very slowly, because when I raised  
3 the pallet or the basket slowly, I didn't know at that time  
4 whether it was going to do the same thing as it did before,  
5 so I went very slowly.

6 Q Well, let's take it step by step. When you  
7 raised this pallet or basket off the pier, you had to  
8 bring your Burton winch control toward you from this  
9 neutral or stopped position, isn't that so?

10 A The control of the Burton, yes.

11 Q Did you have any trouble in raising this pallet  
12 or this basket from the pier on the Burton fall?

13 A No, because I was using it very slowly and it ran  
14 slowly (indicating).

15 Q And then when you raised it on the Burton fall,  
16 how high did you raise this pallet or basket above the  
17 ship's rail forward here?

18 A The same, four or five feet.

19 Q The same as you did with the car, is that right?

20 A Yes.

21 Q And then to get it over the square of this  
22 hatch, so you could lower it down, you had to again slack  
23 this Burton fall and take in on this up and down fall,  
24 is that correct?

25 A Yes.

1  
2 Q And in slacking the Burton fall, you did just  
3 like you did with the car, didn't you, you had to move  
4 your control lever forward to the lowring or slacking  
5 position and pull the control lever for the up and down  
6 winch, or up and down fall toward you to the raising  
7 or tightening position, is that right?

8 A The up and down yes, but the Burton, I slackened  
9 slowly, and that's the way I brought the pallet down.

10 Q You brought it across and then did you have to  
11 slack your up and down fall to lower the pallet down into  
12 the 'tween deck?

13 A Yes.

14 Q And while you were doing this, this bringing  
15 the pallet from the pier, bringing it up across the ship's  
16 deck and bringing it down in the 'tween deck, did you have  
17 any trouble or experience any difficulty with the winch  
18 controls?

19 A No.

20 Q Did there come a time when you removed the  
21 platform or the basket that they brought him away  
22 from the ship, Mr. Iannuzzi?

23 A Yes.

24 Q Could you tell me how Mr. Iannuzzi was taken  
25 off the ship?



1           A     He was placed on the pallet or the basket,  
2  
3     I don't remember which now, and that way slowly I raised  
4     it up and down above the coaming and then I started  
5     to raise with the Burton, slacken the up and down,  
6     I took him past the bulwark of the ship, and I slackened  
7     down on to the dock.

8           Q     In other words, if I understand you correctly,  
9     you performed the same functions with this cargo winch that  
10    you did in bringing it aboard, is that correct?

11          A     Yes.

12          Q     You had to raise it first on the up and down  
13    fall, you had to slack your up and down fall while you  
14    took in on your Burton fall to move it across the deck  
15    and when you got it up -- when you got Mr. Iannuzzi up  
16    under the head of this boom, they you slackened your  
17    Burton fall, is that correct?

18          A     Yes.

19          Q     Did you experience any difficulty with these  
20    winch controls while you were taking Mr. Iannuzzi  
21    from the 'tween deck and putting him out on the pier?

22          A     The only difficulty was to go very slowly.

23          Q     Did you go very slowly when you put this car  
24    aboard just before the accident, or while you were  
25    attempting to put it aboard just before the accident?

1 merf 43  
2 Did you open these winches very slowly?

3 A Yes.

4 Q And you were operating very slowly at the time  
5 you put the car back on the dock, at the same time you  
6 brought the pallet or the basket back into the hatch  
7 and in taking Mr. Iannuzzi out of the hatch, is that  
8 correct?

9 A Yes.

10 Q So that if I understand you correctly at all times  
11 at the time of the accident and in what transpired after  
12 the accident, putting the car out, bringing the pallet or  
13 basket back and taking Mr. Iannuzzi off the ship,  
14 you at all times operated these winches slowly, is that  
15 right?

16 A Yes.

17 Are you talking now about the car or Mr. Iannuzzi?

18 Q I am talking about the times you operated the  
19 winch, the time you operated it at the time of the accident  
20 in trying to put this car on board, the time you put the  
21 car back on the pier, the time you brought the pallet  
22 and basket back and the time you took Mr. Iannuzzi out  
23 of the ship and put him on to the pier, at all times you  
24 operated the winches slowly, is that correct?

25 A Yes.



merf 44

1  
2 Q And there weren't any repairs made to these  
3 winches after this accident before you put this car  
4 out on to the dock or before you brought this pallet  
5 or basket back into the hatch and before you removed  
6 Mr. Iannuzzi from the ship, were there?

7 A Outside of the time that they put the oil in,  
8 that was the only repairs that were made at the time  
9 the oil was put into the controls and the manipulation  
10 of the levers, because they were stiff (indicating).

11 Q And that you told us was about 11:00 or 11:30  
12 that morning, is that correct?

13 A Yes.

14 Q And this accident happened about 7:15, 7:20  
15 in the evening, is that correct?

16 A Yes, sir.

17 Q Now, at the time you brought this car on board,  
18 just before the accident occurred, was there deck cargo  
19 on deck in this area on the inshore side of that hatch?

20 A Yes.

21 Q And could you tell me how much deck cargo was  
22 on deck?

23 A There was a tractor and drums.

24 Q Could you come down from the stand and put the T  
25 for me approximately where the tractor was on the deck?

1 merf 45  
2 Just mark it on the plate there approximately where it  
3 was, the tractor.

4 A The tractor was right here if this is the hook  
5 and it came about up to here.

6 MR. KAIN: Will you indicate that the witness  
7 is drawing a box-shaped diagram. Will you put a T in the  
8 middle of the diagram to indicate the location of the  
9 tractor -- adjacent to the inshore rail on the starboard  
10 side of No. 3 hatch.

11 Q Now, can you indicate for me approximately, Mr.  
12 Coppola, where these drums were stowed, the drum stowage?

13 A I think the barrels and the drums were over here.

14 Q Will you draw a rectangle or something to  
15 indicate the location of the stowage?

16 A Just a moment, I don't remember exactly where  
17 the drums were. I know that there were drums on board in  
18 the area. I know the tractor was here but exactly where  
19 I don't remember. I remember that I had to pass the cargo,  
20 raise it, to go over to clear the tractor, I had to  
21 raise it at a height of five or six feet.

22 Q And how high was the tractor above the top of  
23 the tractor is about how high above the deck?

24 A About two feet from the deck, three feet.

25 Q And how about the drums, were they above the



merf 46

level of the ship's bulwark or rail?

A No. The barrels come underneath, about like this. This would be the railing and they would be underneath.

MR. KAIN: May I ask your Honor to permit me to mark this exhibit for identification?

THE COURT: Surely.

MR. KAIN: And with that I have no further questions.

(Defendant's Exhibit 3 marked for identification.

CROSS EXAMINATION

BY MR. COHEN:

Q Mr. Coppola, I think you just said to Mr. Kain that the tractor was two or three feet above the deck. Didn't you really mean it was two or three feet higher than the rail?

A Yes, this would be the bulwark, it would be two feet, two and a half feet, exactly I do not know above that, but the car passed five or six feet over the tractor.

Q And it was necessary for you as the winch man to bring this car high enough up in the air so that it would clear that tractor without hitting it, is that right?

1  
2 A In a way that no damage would happen, yes.

3 Q Now, from the time that you brought that car  
4 up from the dock up until the time you heard the noise  
5 of an accident, did that car hit or strike anything?

6 A I did not feel the car striking anything.

7 Q Did you see the car striking anything?

8 A No, I did not see it.

9 Q Now, when you stand on the winch platform and  
10 operate the winch levers, one with each hand, you keep  
11 your eyes focused on the draft being carried, is that  
12 correct?

13 A Watching the draft, yes.

14 Q And as you watch that draft, depending upon how  
15 you see it move, you make an adjustment with one winch  
16 lever or the other, is that correct?

17 A Yes.

18 Q And your eyes are always on the draft, correct?

19 A Yes.

20 Q Now, from where you were standing and operating  
21 the winch levers, you were able to see Mr. Scotto, the gangway  
22 man, is that right?

23 A Yes.

24 Q And Mr. Scotto had a position near the rail  
25 of the ship, is that correct?



merf 48

1  
2 A Yes, outside at the coaming. In a manner that he  
3 is watching the dock.

4 Q In other words, Mr. Scotto has to stay near the  
5 rail so that he can see over on to the dock because that's  
6 the area that you cannot see, is that right?

7 A Yes, sir.

8 Q Now, at the time of the accident, the only  
9 longshoreman that you saw on the deck was Mr. Scotto  
10 and yourself, am I right?

11 A Yes.

12 Q In addition to longshoremen working on the deck  
13 at the time of the accident, you also saw some carpenters,  
14 did you not?

15 A Yes, but I saw some people. I don't know whether  
16 they were carpenters or who they were, I saw them going  
17 back and forth.

18 Q Now, Mr. Iannuzzi was an old friend of yours,  
19 I believe you said he was a pisano.

20 A Yes, sir.

21 Q And he was not up on the deck at the time, was he?

22 A No. Before the thing happened, I had seen him  
23 and spoke to him. Before.

24 Q Before? Well, that was about 15 minutes before  
25 the accident happened that you had last seen Mr. Iannuzzi

merf 49

and spoken to him, is that true?

A Yes, sir.

Q And from that time, 15 minutes before the accident up until the time of the accident, you didn't see him any more, is that right?

A No.

Q And when you had last seen Mr. Iannuzzi 15 minutes before the accident, he was in the inshore forward corner where the red mark is drawn on this model, is that right?

A Yes, near me.

Q Now, can you tell us whereabouts at this hatch the carpenters were working?

A You mean in the hatch or on deck?

Q On the deck.

A But I saw people working around. I don't know who they were or who they were not. But not where I was working, around the deck.

Q Weren't there any -- where you were working you were on top of the winch platform, is that correct?

A Yes.

Q You are the only man that is on top of the winch platform, right?

A Yes, sir.

Q That is where you stay when you work, right?



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A Yes.

Q The only longshoremen you saw on the deck was Mr. Scotto and he was over near the rail, is that right?

MR. LORY: Objection, your Honor, he already testified he saw Mr. Iannuzzi on the deck.

MR. COHEN: That was 15 minutes before, if your Honor please.

THE COURT: I think we are talking about the time of the accident.

MR. COHEN: Yes.

A The people who are on deck I don't look to see where they are going, one person goes one place, someone else goes another place.

Q Well, you have to watch Mr. Scotto because you are taking your signals from him.

A Yes. Of course.

Q And he was working on the deck over near the rail, is that correct?

A Yes, sir.

Q You also saw carpenters working on that deck near the No. 3 hatch, is that right?

A I saw people; I don't know whether they were carpenters, longshoremen, I am not concerned about that.

Q Did you see people working with pieces of

1 merf 51

2 wood or lumber?

3 A Yes, I believe so.

4 Q Weren't those people carpenters?

5 A Were they carpenters? If they were carpenters,  
6 I saw someone, yes.

7 Q And weren't they passing the pieces of lumber  
8 down from the main deck to the deck below?

9 A Yes, but not where I was working; they were pass-  
10 ing them from the other place, over here (indicating).

11 Q Would you please come down, sir -- if I may,  
12 your Honor -- and show us where it is that these carpenters  
13 were passing the lumber down.

14 A Right here (indicating).

15 THE COURT: For the record, it is the corner  
16 of the -- forward starboard corner of the hatch, isn't it?

17 MR. COHEN: Yes.

18 Q Then do I understand, Mr. Coppola, that the  
19 carpenters were passing lumber down from the main deck  
20 to the deck below in approximately the same area where  
21 15 minutes before you had seen Mr. Iannuzzi on the main  
22 deck?

23 A Yes.

24 Q And were the carpenters passing that lumber down  
25 by hand from the main deck to the deck below?



merf 52

(Witness resumes stand.)

A But I wasn't looking at them. I only saw one man who had taken a piece of lumber which was on the deck and after that, I don't bother looking at them.

Q You say there was only one carpenter on the main deck passing lumber on the main deck?

A I saw one. After that I saw several others, but I don't even know whether they were carpenters. I am not watching them. I have to watch out for my own work. I don't even know if they were carpenters.

Q Well, the men in your gang were longshoremen, is that right?

A Yes.

Q And you had been a member of that same gang for how long, sir?

A From the time that I started working as a longshoreman.

Q About how many years is that?

A Since 1955.

Q You knew the men, the longshoremen in your gang, did you not?

A Yes, but a lot of times you have extra gangs.

Q Were the men who you saw -- were the men or man whom you saw passing the lumber down, was he a longshoreman

in your gang?

A No.

Q And based upon your years of working on the water-front, isn't it a fact that after longshoremen load automobiles, carpenters have to chock those automobiles and use lumber to do so?

A Yes, to keep the cars stopped -- chocked.

Q And Mr. Coppola, do you remember that you gave testimony in this lawsuit a couple of years ago?

A Yes.

Q And you came to this court, did you not?

A I don't remember. I think so, but I don't remember.

Q And Mr. Lory was with you, and Mr. Kain was there, is that correct?

MR. LORY: Let the record indicate he was here under subpoena, he was not here with me.

THE COURT: But he was there.

MR. LORY: I was there but the question was phrased was he here with me.

Q You were here with Mr. Lory and Mr. Kain and with another lawyer named Baxter from my office, is that right?

A I don't remember these people. I know that



1 merf 54

2 I came with some people, whether it is one or the other,  
3 I don't know.

4 Q And you remember that that was on October 14,  
5 1971?

6 A What was?

7 Q The day that you came to this courthouse and gave  
8 testimony about this case.

9 A I came but I don't remember the date. I work  
10 and I am not -- my mind isn't fixed on one thing only.

11 Q Well, I'd like to read you if I may, Mr. Coppola,  
12 a couple of questions and answers that you gave at that  
13 time to see if that doesn't refresh your memory.

14 THE INTERPRETER: May I have a copy?

15 MR. COHEN: Please explain to him what I am about  
16 to do.

17 THE INTERPRETER: Yes, I will do so, Mr. Cohen.

18 Q On page 43, line 10:

19 "Q When you testified you saw Scotto the gangway  
20 man on the weather deck, with two or three other men that  
21 may have been carpenters, what were these two or three other  
22 men doing at the time you saw them?

23 "A You mean the carpenters who were on board the  
24 ship there?

25 "Q Yes.

1 "A I don't know--"

2  
3 MR. LORY: I object to the remainder of the  
4 answer, your Honor.

5 THE COURT: Well, better get me a copy so I can  
6 look at it.

7 MR. LORY: Objection is marked right here, your  
8 Honor. The rest of it I submit is hearsay.

9 THE COURT: No, I think I will allow it.

10 I will allow you to put that question to him --  
11 that answer to him.

12 MR. COHEN: The next question was:

13 "Q Yes.

14 "A I don't know, maybe they were passing the lumber,  
15 I am not a carpenter."

16 Now that that has been read to you, Mr. Coppola,  
17 does that help you remember that there were two or three  
18 men working on the deck in that area with the lumber?

19 A I saw one man who was passing the lumber from  
20 the other area where I indicated. And I repeat to you,  
21 I wasn't watching. Even if I said it in the deposition  
22 here.

23 Q All right.

24 A That's all.

25 Q Mr. Coppola, 15 minutes, if I may, sir --



1 THE COURT: Mr. Cohen, before you leave that,  
2 do you want to ask him whether he was asked those questions  
3 and gave those answers, or is that --

4 MR. COHEN: Well, would it be easier if counsel  
5 stipulated these were questions asked and answers given.

6 MR. LORY: These were the questions that were  
7 asked and these were the answers that were given.

8 Q Mr. Coppola, I'd like to direct your attention  
9 to a point in time 15 minutes before the accident when you  
10 were talking to Mr. Iannuzzi who was standing in the area  
11 you earlier indicated. After you had your conversation  
12 with him at that time, did you see where he went?

13 A No.

14 Q I want to now direct your attention back to 11:00  
15 or 11:30 in the morning when you said you had some trouble  
16 with the handles of the winches. I believe you said the  
17 trouble you had at that time is that the winche handles  
18 were stiff, is that right?

19 A Yes, sir.

20 Q So that you could not move them as easily as  
21 you might like, is that correct?

22 A Yes, sir.

23 Q And if the handles were stiff and you couldn't  
24 move them as easily as you might like, that would make  
25

the operation go slower, would it not?

A If you couldn't move it you had to call the officer.

Q When you have difficulty with the handles because they are -- withdrawn.

Is it your testimony that you couldn't move the handles at all?

A You move them -- they move slowly and you couldn't work.

Q And what I am saying to you, sir, is when they are stiff and they move slowly, that makes the whole operation go slowly, does it not?

A No, you can't work.

Q You can't work because when you take the handle from its stop position in the center and try to move it forward, for example, it is going to move very slowly, is that right?

A But under this system you can't control the draft.

Q Well, isn't it true -- withdrawn.

Is it fair to say, Mr. Coppola, that the further forward you move the winch lever, the faster the drum of the winch rotates?

A Yes, sir.

Q Now, that trouble that you experienced at 11:00



1 or 11:30 in the morning with the stiffness in the winch  
2 levers, you never had that trouble ever again that day, did  
3 you?  
4

5 A No.

6 Q And the trouble that you say you had at the time  
7 you heard of an accident, that was a kind of trouble that  
8 you had never had earlier that day, isn't that true?

9 A The trouble was that the brakes didn't hold  
10 that everything slackened, that's it. What kinds of  
11 questions are these?

12 THE COURT: Strike that out. Please tell the  
13 witness to answer the questions. Counsel is questioning  
14 appropriately.

15 Go ahead, sir.

16 Q Mr. Coppola, I thought I understood you to explain  
17 to Mr. Kain, to the Court and jury, that the car that  
18 was being taken aboard at the time of the accident had  
19 reached a point over the ship's rail and that you were now  
20 starting to slack off slowly with the Burton winch and  
21 take in with the up and down winch in order to bring it  
22 from the rail over the square of the hatch?

23 A Yes, sir.

24 Q And I believe I understood you to say that as  
25 you started to slacken off with the Burton winch, suddenly

merf 59

Coppola-cross

260

too much slack went out?

A Yes.

Q Now, wasn't that the only time that day that you had had trouble with too much slack coming out of the Burton winch when you were slacking off?

A Yes.

Q Now, at that point in the operation, if too much slack comes out of the Burton winch, the draft will dip down and swing across, is that right?

A Yes, sir.

Q And isn't it true that it is your job as the winch operator to so coordinate the two winches so that there is not too much slack going out of the Burton winch at the time you were taking in with the up and down?

A When the winches work properly, yes, sir.

Q And even if the winches work properly, if the winch man should perhaps let too much slack out of the Burton, that would cause the draft to swing down and across, would it not?

A If the winches are working properly, the man who was at the winch slackens and takes the strain, the winches work perfectly.

THE COURT: That isn't his question. Do you want to read the question back, please.



1  
2 MR. COHEN: I will rephrase it, your Honor.

3 THE COURT: All right.

4 Q If the winches are working well but the winch  
5 operator is not, and the winch operator should slacken  
6 too much on the Burton at that stage in the operation,  
7 wouldn't that cause the draft to come swinging down  
8 and across?

9 A Yes.

10 Q So that a draft coming down and swinging across  
11 could be caused either by a malfunction in the winch or  
12 an improper action on the part of the winch operator?

13 A If it is done that way, yes.

14 Q Now, you saw this draft from the moment it got  
15 up over the ship's rail up until the time it became  
16 stationary over the square of the hatch, is that right?

17 A Yes, I had seen it.

18 Q You saw it all during that passage, is that right?

19 A Yes.

20 Q You didn't see it hit anybody?

21 A No.

22 MR. COHEN: Thank you very much.

23 THE COURT: Mr. Lory, have you any redirect?

24 MR. LORY: Yes, please.

25 THE COURT: Do you think you will be long with

it, or no?

MR. LORY: No.

REDIRECT EXAMINATION

BY MR. LORY:

Q Mr. Coppola, when was it that you saw the carpenter that you told Mr. Cohen about? What time of day?

A The exact time I don't know but it was in days.

Q But you saw this carpenter before you last spoke to Mr. Iannuzzi?

MR. COHEN: I am going to object to the form of the question, if your Honor please. It is suggestive.

THE COURT: Well, Mr. Lory, rephrase it and perhaps avoid the objection. I think the question is appropriate in substance. Go ahead.

Q Did you see this carpenter before the accident happened?

A Forward, yes. I saw someone who was there who had these pieces of lumber in his hands.

Q Did you see him during the morning?

MR. COHEN: I am going to object to that, if your Honor please. That's improper in form and suggestive.

THE COURT: No, I will allow it.

A The time I don't know.

Q Now, Mr. Coppola, at the time at 11:30 on the



merf 62

morning of the day of the accident that you called someone to come over to do something with the winch, can you tell us how many men came?

A You mean to fix the winch?

Q Yes.

A An officer came. Now I don't remember whether it was one or two.

Q Well, think back, Mr. Coppola. How many men came?

MR. KAIN: If your Honor please, the witness already testified he doesn't remember.

THE COURT: Yes, I think -- if you want to ask him again what is his best recollection, you may do so.

Q What is your best recollection as to the number of men that came to fix the winch, whether it was one or more than one?

A To put the oil, you only need one man.

Q Now, did you tell Mr. Kain that when the officer came, he put the oil in the winch, is that right?

A Yes.

Q And then after he put the oil in the winch, he took the handles on the top and he moved those back and forth?

A Yes.

Q And after he did that, he took some handles further down and he moved those?

merf 63

A Yes.

Q Do you remember them doing anything else besides those three things?

A No.

Q Now, Mr. Coppola, can you tell us about how much this car weighed that you were bringing aboard at the time the accident happened?

A I don't know. It's a big car. How much, how much does a big car weigh, two tons, three tons, I don't know.

MR. KAIN: If your Honor please, I ask the latter part be stricken, as to the capacity of a big car.

THE COURT: Yes.

MR. LORY: So we have on the record only the fact that it is a big car, am I correct, your Honor?

THE COURT: Yes. The rest is sheer guesswork on his part. That I don't think is proper evidence.

Q Mr. Coppola, I believe you also told Mr. Kain that sometime after the accident you carried on the cargo falls a pallet aboard the vessel?

A Yes.

Q And on this pallet there was only a basket as you described it?

A I don't remember whether it was a pallet or



merf 64

a basket. They call it a basket.

Q Can you tell us, please, Mr. Coppola, how much of this pallet and this basket that you referred to weighed?

THE COURT: Mr. Lory, I think it is in the alternative. I don't think it was a pallet and a basket.

Q How much did this pallet or basket weigh?

A The pallet may be 30 pounds, 40 pounds, perhaps even more, 50, 60 pounds. The basket is lighter.

MR. LORY: I don't think I have anything else, your Honor.

THE COURT: Any recross?

MR. KAIN: Just one or two questions, your Honor.

RE CROSS EXAMINATION

BY MR. KAIN:

Q Mr. Coppola, as Mr. Iannuzzi was taken off the ship, did anybody else come up with him on these cargo winches?

A You mean on the platform or the basket?

Q Yes.

A Two or three men.

Q They came up at the same time he did on the pallet or basket, is that right?

A Yes. Right now I don't remember exactly whether it was one person or two persons that accompanied him

1 merf 65

2 on the pallet, but if it is a basket, only one person  
3 can fit.

4 MR. KAIN: Thank you.

5 RECROSS EXAMINATION

6 BY MR. COHEN:

7 Q Mr. Coppola, may I show you these two photographs  
8 A and B in evidence and ask you if you can show us on those  
9 photographs where it was that the officer applied oil  
10 to the winches between 11:00 and 11:30 in the morning?

11 A Here, one of these two.

12 Q Could you mark with this red crayon, put a circle  
13 around the place where you say the oil was applied at that  
14 time?

15 A The oil is put into one of these two, I do not  
16 know exactly. I can indicate it here but it could be  
17 on either one of the three.

18 Q All right, would you mark them and we will  
19 understand that it would have been on either one. Just  
20 put a circle around each one if you would, please, and  
21 the others?

22 A (Witness marks exhibit.)

23 Q And that thing you have circled does that open  
24 up in some way so that the oil can be put in?

25 A I repeat to you, sir, I don't remember now whether



1  
2 the oil is placed on one of these three as indicated  
3 or whether it is placed underneath here somewhere. When  
4 he was called to put the oil in, he put the oil in one  
5 of these places exactly where, I don't know.

6 MR. COHEN: May we indicate for the record, your  
7 Honor, that the witness has marked three circles on this  
8 photograph which is Exhibit A in evidence, and may I show  
9 those to the jury?

10 THE COURT: Yes.

11 Q If I may, Mr. Coppola, do you remember at the time  
12 of your deposition in this case on October 14, 1971, you  
13 were asked the following questions and gave the following  
14 answers from page 19, Mr. Amarante, line 14:

15 "Q Other than yourself, what other longshoremen  
16 were on deck at No. 3 hatch at the time of the accident?

17 "A You mean the deck men?

18 "Q Well, the deck men and any other longshoreman  
19 that you were there with, that you know?

20 "A I was up there at the winch, Scotto was my gangway  
21 man and there were two or three men on deck, who they  
22 were I don't know, they may have been carpenters, I don't  
23 know, it had already gotten dark.

24 "Q Were you and Mr. Scotto the only members of your  
25 longshore gang who were on deck at No. 3 at the time of

merf 67

this accident?

"A Yes."

Was that the testimony that you gave at that time?

A Yes.

MR. COHEN: All right, thank you very much.

THE COURT: You are excused, sir. Thank you very much.

(Witness excused.)

THE COURT: Ladies and gentlemen, we will stand in recess until 2:15 p.m.

(Luncheon recess.)



AFTERNOON SESSION2:15 p.m.

(Jury present.)

MR. LORY: If your Honor please, before we return to Mr. Styles, since I have Mr. Ferenczy here I will read some depositions and then put Mr. Ferenczy on the stand.

THE COURT: Is this order important? I am concerned at holding an interpreter and a witness here while depositions are being read.

On the other hand, if this is something --

MR. LORY: I would prefer a different order, your Honor, but considering the commitments of Mr. Ferenczy and he is not available tomorrow morning and I don't want to hold him up --

THE COURT: This is a maritime expert?

MR. LORY: Yes.

THE COURT: Have you laid a sufficient foundation, or are we going to have difficulties there or can we take things subject to connection?

MR. KAIN: Mr. Lory intends to read portions of some depositions that had been taken to lay the foundation.

THE COURT: Good. Now that I see where you are going, Mr. Lory, go ahead.

MR. KAIN: In that connection, your Honor, I have

merf 69

270

the deposition of Mr. Gous but I understand Mr. Pitt's original was filed with the Court. I assume your Honor has that and I would be glad to give you the one of Mr. Gous.

MR. LORY: Starting with Mr. Gous, page 3, line 7 -- your Honor, would it be appropriate to advise the jury that these people were deposed?

THE COURT: Yes. Let me do this.

Ladies and gentlemen, what you are about to hear are the contents or a portion of two depositions?

MR. LORY: Yes, your Honor.

THE COURT: Now, a deposition is a document containing questions and answers put to and given by a witness at an earlier time in this very case, generally in a lawyer's office with all counsel present for both sides. It is a pretrial discovery method whereby a witness or a party gives his testimony prior to the trial. It is given under oath, in other words, the witness is sworn at the time it is given, and you are to receive it exactly as if the witness were sitting here on the stand and being asked the questions at this time and giving the answers at this time, and they are to be given the same consideration.

The fact of the matter however is in the case of Mr. Gous, the testimony was given on October 26, 1973 and



1 it is now recorded and can be used as if he were here.

2 Mr. Lory, does that cover it essentially?

3 MR. LORY: I think so, more than adequately.

4 THE COURT: Good.

5 MR. KAIN: The only objection I would have, your  
6 Honor, is that they were not really Mr. Gous' testimony was  
7 taken to preserve it because of his nonavailability, it wasn't  
8 taken for discovery purposes.

9 THE COURT: Well, Mr. Gous -- his testimony is  
10 being taken -- what I was saying, Mr. Kain, was applicable  
11 to all depositions. Mr. Gous is a representative of the  
12 defendant and his deposition was taken as a defendant's  
13 representative.

14 In other words, you say he was the third officer  
15 of the Huguenot.

16 MR. KAIN: Yes, I didn't produce him for an  
17 examination before trial, I took his testimony as a witness  
18 who would not be available at the trial.

19 THE COURT: I see, it doesn't so read.

20 MR. KAIN: His testimony is not binding on the  
21 defendant in that sense that it is not the examination  
22 of a party in spite of what it may say.

23 THE COURT: That's what it does say.

24 MR. KAIN: It is not true, sir, we took it pursuant  
25

merf 71

to notice. I served notice on opposing parties that I would take his testimony as a witness.

THE COURT: Because he would be at sea perhaps at the time of the trial.

MR. KAIN: At least he would not be available, sir.

THE COURT: All right, let me give you a little further explanation.

Mr. Johan B. Gous, was an officer of the Huguenot at the time of these events, as I understand it, and being a seaman, and spending more time on the vessel than he does ashore and against the eventuality that he might be at sea at the time the case came on for trial, Mr. Kain noticed and had his testimony preserved so that it could be used at this time even though he might be unavailable at this time. Which I gather he is, is that right?

MR. KAIN: That is correct, sir.

THE COURT: All right, go ahead, sir.

MR. LORY: Page 3, line 8.

"Q Mr. Gous, where do you live?

"A 11 Avonlea, 498 / bore Road, Durban, South Africa.

"Q How old are you, Mr. Gous?

"A Thirty-one.

"Q Will you speak slowly and keep your voice up so we can hear you.



merf 72

"By whom are you presently employed, Mr. Gous?

"A South African Marine Corporation.

"Q What job do you have with South African Marine Corporation?

"A At the moment?

"Q Yes.

"A I am chief officer."

MR. COHEN: Could I ask Mr. Lory to please read question and answer before each?

THE COURT: I suppose that is preferable if you can do it.

MR. LORY: All right, I'm sorry.

"Q What job do you have with South African Marine Corporation?

"A At the moment?

"Q Yes.

"A I am chief officer.

"Q Of what ship?

"A Of the S.A. SUGELA.

"Q How long have you been going to sea, Mr. Gous?

"A Since 1961.

"Q And what licenses do you presently hold?

"A All of them.

"Q Do you hold a master's license?

"A Yes, sir.

merf 73

"Gous

274

1           "Q   And by whom is the master's license issued to  
2           you?  
3

4           "A   By the South African Government.

5           "Q   On November 24, 1968, by whom were you employed,  
6           Mr. Gous?

7           "A   By South African Marine Corporation.

8           "Q   Were you employed aboard a ship on that date?

9           "A   Yes, sir.

10          "Q   What ship were you employed aboard on November  
11          24, 1968?

12          "A   S. A. Huguenot.

13          "Q   What job did you have aboard the Huguenot?

14          "A   Third officer.

15          "Q   Do you remember approximately when you joined  
16          the S.A. Huguenot?

17          "A   June 1968.

18          "Q   And how long did you remain on board the  
19          Huguenot? How many months?

20          "A   Eleven and a half months.

21          "Q   You were on board it on November 24, 1968;  
22          is that correct?

23          "A   Yes, sir.

24          "Q   Mr. Gous, I show you these two pieces of paper  
25          and ask you if you can, sir, to tell me what they are.



merf 74

"Gous

275

"A It's a deck log of the S.A. Huguenot.

"Q Is it the entire deck log of is it a portion of the deck log?

"A It's just a portion of it.

"Q And what portion of it is it? What dates does it cover?

"A Saturday, Sunday, 23rd and 24th of November, 1968.

"Q Is that the original of the deck log for those two dates?

"A This is a carbon copy.

"Q A carbon copy?

"A Yes.

"Q It is made with carbon paper?

"A Between the original and this, yes, sir.

"Q Would you tell me who made the entries in that deck log?

"A Myself and the second mate.

"Q Do you recognize your handwriting on the deck log?

"A Yes.

"Q Is the deck log a record which you were required to keep aboard the S.A. Huguenot in the regular course of the ship's business?

"A Yes."

merf 75

276

At this point if your Honor please, it was marked for identification and I should like to offer the page for the date of the accident into evidence as plaintiff's exhibit.

THE COURT: No objection?

MR. KAIN: I have no objection.

MR. COHEN: No, sir.

THE COURT: It may be received.

(Plaintiff's Exhibit 1 received in evidence.)

MR. LORY: This is also the date of the 23rd which is the Saturday, the day before.

If your Honor please, reading from the second page of the exhibit, which is the page of the deck log for November 24, 1968, while the vessel South African Huquenot is at the Port of New York, entry, 1950, which is the equivalent of 7:15 of the 24th our clock.

"Injury to stevedore: While supervising the loading of vehicles into No. 2 upper 'tween deck, stevedore, Mario Innuzzi was injured. He was taken ashore immediately and hospitalized. No treatment being rendered by the ship. Accident was not witnessed by the ship's staff and at the time of sailing, details of accident could not be ascertained."



merf 76

277

If your Honor please, the entires for this particular date also indicate that the winches at No. 3 hatch, or the activity at No. 3 hatch, on the 23rd, at zero four zero, commencing loading, No. 3 --

MR. KAIN: 3 and 4-F. Just above it is 0830 --

MR. LORY: That refers to the entry above it.

At 1300 resumed loading at No. 3 hatch --

MR. KAIN: No, 1, 2 3 and 4.

MR. LORY: We are concerned with No. 3.

MR. KAIN: That's not the entry.

MR. LORY: All right. "At 1550 completed loading at No. 3 lower hold, 1530 loading No. 3 lower 'tween deck."

Proceeding to the entries for the 24th:

At 0815 loading No. 2, 3, 4, 6 and 6 watch.

At 1305, continued loading No. 3, two gangs --" something "--then (two groups) 5 -- "

MR. KAIN: That is two gangs.

MR. LORY: What follows after two gangs?

MR. KAIN: What follows after two gangs?

"5 on deck courses."

MR. LORY: Okay. Then we go to 1430: "One gang from No. 3 to No. 2, continue loading. Bumper barge away at 1520 through 1540, rig heavy derrick No. 3, continue loading. At 1915 stevedore injured No. 3 hatch

merf 77

gang from No. 3 ashore ."

Line 19, page 6:

"Q Mr. Gous, would you look at Defendant and Third-party Plaintiff Exhibits 1A and 1B for identification and tell me if you can when the S.A. Huguenot arrived in the Port of New York.

"A 0728, on Saturday, the 23rd of November, we tied up at Pier 6.

"Q 0728?

"A Yes, sir.

"Q That's Pier 6, where, Brooklyn?

"A Brooklyn.

"Q Did longshoremen work cargo aboard the S.A. Huguenot on Saturday, the 23rd of November, 1968?

"A They did.

"Q What hours did they work?

"A They came on board at 800, on Saturday, and stopped work for the day 1800.

"Q 1800?

"A Yes.

"Q Does your log book indicate what hatches they worked?

"A They worked hatches 1, 2, 3, 4, 5 and 6.

"Q Did longshoremen also work cargo aboard the



merf 78

S.A. Huguenot on Sunday, November 24, 1968?

"A Yes, sir.

"Q Would you tell me what hatches they worked that day, if it is indicated in your log book?

"A 1, 2, 3, 4, 5 and 6.

"Q What hours did the longshoremen work on that date, that is, the 24th of November, 1968?

"A 0800 in the morning to 2015.

"Q When did the ship sail from New York, could you tell me, or from Pier 6 Port Authority? When did they sail from there?

"A We left the berth 2201.

"Q That's Pier 6 you left at 2201?

"A Yes, sir.

"Q And for where was the ship bound?

"A Cape Town.

"Q South Africa?

"A Yes."

Page 16, line 19:

"Q Mr. Gous, if you know, was there an accident involving a longshoreman aboard the South African Huguenot on November 24, 1968?

"A Yes, sir.

"Q Was this accident reported to you by

merf 79

283a  
"Gous

280

anybody?

"A Yes, sir.

"Q Were you a witness to the accident, an eyewitness?

"A No, sir.

"Q Do you recall where you were at the time you first heard about this accident?

"A In the chief officer's office.

"Q Where on the ship is the chief officer's office located?

"A On the third deck up, starboard side, after end.

"A In the ship's house?

"A In the accommodation.

"Q When it was reported to you, was there anybody else in the chief officer's office other than yourself?

"A The chief officer was present as well.

"Q And do you recall what you were doing at the time you heard about this accident?

"A Making out a free space report.

"Q Do you remember who reported the accident to you?

"A The cadet.

"Q Do you remember what the cadet's name was?

"A Allister Henry.

"Q Do you remember approximately what time of the day the accident was reported to you?



merf 80

"A It was approximately twenty past seven.

"MR.COHEN: That's P.M., right?

"MR. KAIN: Yes.

"Q That is P.M.?

"A Yes.

"Q In the evening?

"A Yes.

"Q Was it dark outside when it was reported? In other words, was it after nightfall when the accident was reported to you?

"A After sundown.

"Q When the accident was reported to you, what did you do, if anything?

"A I went down on deck to No. 3 hatch.

"Q When you got down on deck to No. 3 hatch what did you do, if anything?

"A I tried to find out what exactly happened.

"Q Who did you ask what had happened? Who did you talk to, in other words, when you were trying to find out exactly what happened?

"A I spoke to the bosun and some of the longshoremen.

"Q Did any of the longshoremen tell you what happened?

"A The longshoremen refused to answer my questions."

To page 54, gentlemen, line 17:

merf 81

"Q Was it part of Cadet Henry's duty to report an accident to you?

"A No, sir.

"Q How did he come to report it to you?

"A He saw it and then went looking for me. He didn't see it occur."

Back to page 38, please, line 17:

"Q What deck cargo was at No. 3 hatch?

"A One unboxed tractor on the starboard side, one unboxed scraper on the port side, and one unboxed tractor on the port side.

"MR. COHEN: Could you tell us which the in-shore side was?

"THE WITNESS: Starboard side.

"MR. KAIN: It's in the log book.

"Q How was the vessel berthed?

"A Starboard side to.

"Q Do you remember the height of the -- can you give me the dimensions of this unboxed tractor that was on the starboard side?

"A No, sir.

"Q Do you have any recollection as to how tall the unboxed tractor was with respect to from deck level?

"A No, sir.



merf

"Q Do you recall whether it was as high as the hatch  
coaming above it, below it?

"A No, sir.

"Q Mr. Gous, referring to Defendant and Third-Party  
Plaintiff Exhibit 1B, did I understand you to testify that  
it was just yourself and the second officer who made the  
entries in this log?

"A No, sir.

"Q Who made the entries?

"A On this one?

"Q Yes.

"A Second made and myself."

I assumed that word should be mate.

"MR. KAIN: Look at the sheet and tell him who  
made the entries, if you want to denominate which entries were  
made by which individual, if you know.

"MR. COHEN: Are you interested in the first  
sheet or second sheet, Mr. Lory?

"MR. LORY: Second sheet.

"Q There is some made with a firmer hand, and those  
made with a hand with a lighter touch, can you tell me which  
one of those would be yours, the one with the bolder or  
the lighter --

"A These two, the bolder is mine (indicating).

merf 83

"Q What were the time entries of the entries that you made?

"MR. COHEN: They are the bolder ones.

"Q So the record is clear, will you give us the time?

"A 700 to 1200 and 1915 to 2328.

"Q Your entry was the one made at 1915; is that right?

"A Yes, sir.

"Q Are the times set forth there accurately to any degree as to the events reported there?

"A Yes, sir.

"Q To what degree are they accurate? Are they accurate to the minute or is there a tolerance?

"A That would be accurate to the minute.

"Q Then if the log sets forth that at 1915 hours the gang at No. 3 went ashore, then the gang at No. 3 went ashore at 1915 hours?

"A Right."

To page 69, line 24:

"Q Mr. Gous, when you came on duty at 1800 hours on November 24, 1968, were you told the vessel's scheduled departure time?

"A Yes, sir.

"Q What was the time when you came on duty that



1                   merf 84  
2                   you were told that?

3                   "A    It must be the time that we did sail.

4                   "Q    Would it be fair to say that the vessel's departure  
5                   time was not delayed because of this accident?

6                   "A    Not much.

7                   "Q    Would it be fair to say that it was in fact delayed  
8                   because of this accident?

9                   "A    No, I don't know that.

10                  "Q    You told me, 'Not much.'

11                  "Can you give me a -- can you break that down into  
12                  minutes, or hours, or whatever?

13                  "A    If it was a delay, it wouldn't be more than  
14                  about half an hour."

15                  Page 76, line 20:

16                  "Q    Mr. Gous, was any of the deck cargo at No. 3 hatch  
17                  destined for Cape Town during this voyage?

18                  "A    Yes, sir.

19                  "Q    What cargo was that? I think you told us three  
20                  pieces were deck cargo at No. 3?

21                  "A    That's correct, yes. One unboxed tractor on the  
22                  port side was for Cape Town.

23                  "Q    That would be the one that was on the off-shore  
24                  side in New York; is that right?

25                  "A    That's right, yes.

merf 85

"Gouse

287

"Q How was the vessel berthed at the pier at Cape Town? Which side was the in-shore side, port or starboard?

"A I don't know.

"Q Mr. Gous, before you came here to testify, did you review any records other than those items that you have been shown here and the items that have been marked here?

"A No, sir."

Now, please, the examination of Mr. Pitt.

THE COURT: I assume that you are reserving your right to read such other portions of this as may be appropriate.

MR. COHEN: I was about to ask your Honor if we might do that.

THE COURT: Yes.

MR. KAIN: Thank you, your Honor.

MR. LORY: Starting at page 5, gentlemen, the examination of Mr. Kain at line 7:

"Q What is your full name, Mr. Pitt?

"A William Pitt.

"Q No middle name.

"A No middle name.

"Q By whom are you presently employed, Mr. Pitt?

"A South African Marine Corporation.



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"Q Are you employed aboard ship at the present time?

"A No, I'm on my vacation.

"Q And do you expect to resume sailing in the employ  
of South African Marine Corporation when your vacation  
is over?

"A Yes.

"Q How long have you been going to sea?

"A Twenty-one years.

"Q And what licenses do you hold?

"A A chief's license for steam and motor for ships  
of any tonnage.

"Q Any oceans?

"A And any oceans. "

I will drop down to line 6:

"Q How long have you held a chief engineers license?

"A Fourteen years.

"Q Were you formerly employed aboard the MS South  
African Huguenot?

"A Yes.

"Q Could you tell me how long you were employed aboard  
the South African Huguenot?

"A About four years.

"Q When did you join the South African Huguenot?

"A July 1966.

merf 87

"Pitt

289

"Q Do you remember where you joined the ship?

"A Osaka, Japan.

"Q Were you aboard when the ship was delivered  
by the building yard?

"A Yes.

"Q When did you leave the South African Huguenot?

"A About the middle of 1970.

"Q And during this approximate four-year period,  
were you ashore from the ship on vacation?

"A Yes.

"Q At certain times?

"A Yes, at certain times.

"Q Were you employed aboard the vessel on November 24,  
1968?

"A Yes.

"Q And in what capacity were you employed aboard  
the vessel on November 24, 1968?

"A As chief engineer."

Page 9, gentlemen, at line 19:

"Q Mr. Pitt, do you recall where the South African  
Huguenot was on November 24, 1968?

"A In New York.

"Q Do you remember where she was in New York on  
that date?



merf 88

"Pitt

290

"A Pier 6, Brooklyn.

"Q And do you remember when prior to November 24, 1968 the South African Huguenot arrived at Pier 6, Brooklyn?

"A I'm sorry. When?

"Q When before November 24, 1968 did the ship come into the Port of New York?"

THE COURT: Mr. Lory, why don't you cut to line 22, all right?

MR. LORY: All right.

"Q Do you remember what day she came in to the Port of New York?

"A She came in on the morning of the 23rd.

"Q Do you remember when the vessel sailed from New York?

"A About 9:00 or 10:00 o'clock on the evening of the 24th.

"Q And where did she sail for? Do you recall?

A Capetown.

"Q Do you remember where you were on board the South African Huguenot on November 24, 1968?

"A I don't remember where I was but I --

"Q Let me rephrase the question for you. Did you sail with the ship on November 24, 1968?

1  
2 "A Yes, I did.

3 "Q Do you remember where you were on board throughout  
4 the entire day on November 24, 1968?

5 "A No, I don't remember.

6 "Q On November 24, 1968, did you witness any accident  
7 involving a longshoreman aboard the vessel?

8 "A No, I -- no.

9 "Q Did you hear about an accident involving a long-  
10 shoreman aboard the vessel?

11 "A Yes, I heard.

12 "Q Do you remember when you heard about this  
13 accident?

14 "A No.

15 "Q Do you remember who told you about it?

16 "A No.

17 "Q Could you tell me, Mr. Pitt, what type of cargo  
18 winches were installed aboard the South African Huguenot  
19 on November 24, 1968?

20 "A Fukushima hydraulic winches.

21 "Q Were all of the cargo winches aboard the South  
22 African Huguenot hydraulic winches?

23 "A Yes.

24 "Q Were they all manufactured by Fukushima?

25 "A Yes.



1 merf 90

2 "Q Were the winches installed aboard the South  
3 African Huguenot on November 24, 1968 the same winches  
4 that had been installed aboard the vessel by the building  
5 yard?

6 "A Yes."

7 Page 20, please.

8 I'm sorry, going to page 9. May I have a moment,  
9 your Honor? I seem to have gotten myself --

10 MR. COHEN: You left off at page 12.

11 MR. LORY: Thank you.

12 I'm sorry, let's go to page 13, at line 20:

13 "Q Mr. Pitt, I show you this book and ask, if you  
14 can, sir, to tell me what it is.

15 "A It is a Fukushima hydraulic winch instruction book  
16 as kept on the S.A. Huguenot.

17 "Q Have you examined this book before, Mr. Pitt?

18 "A Yes, I have.

19 "Q Does thos book pertain to the Fukushima hydraulic  
20 winches as installed aboard the South African Huguenot  
21 on November 24, 1968?

22 "A Yes. "

23 At this particular point Mr. Kain asked  
24 that be marked as an exhibit. Now I offer it in evidence.

25 MR. KAIN: Your Honor, lest there be some

merf 91

1 confusion, the book marked for identification was lost,  
2 and I obtained an additional manual I furnished Mr.  
3 Lory with a copy of it. If there is any question about it  
4 I can bring in Fukushima's representative to establish  
5 that this is the same instruction manual, if counsel wishes  
6 to raise a question, but this particular book is not  
7 the individual copy marked for identification.  
8

9 THE COURT: Is there any problem?

10 MR. LORY: There is no problem, your Honor.  
11 There is only one variation that I recall, and I think  
12 Mr. Kain will agree with this, that in the book we had  
13 in the deposition there was one page with a caption  
14 "Troubleshooting," which is not part of this particular  
15 book.

16 MR. KAIN: I believe that to be true. I believe  
17 the chief engineer testified to your questions.

18 THE COURT: Can that page be supplied from any-  
19 where?

20 MR. KAIN: I don't believe so, your Honor.  
21 I got this copy from Japan and just a short while ago  
22 and it was some trouble to do so.

23 THE COURT: Mr. Lory, was there testimony about  
24 the page that would suffice? ✓

25 MR. LORY: I know I had made reference during



1 merf 92

2 the examination to a particular page or the contents of  
3 it. I know that the original, the one that was marked  
4 at the deposition, was not lost with intent, let me state  
5 that on the record, and I am sure as Mr. Kain said it  
6 was lost through inadvertence, that he is telling me  
7 the truth --

8 MR. KAIN: It wasn't lost through inadvertence,  
9 if your Honor please, it was mailed to an expert who  
10 apparently lost it. I have a letter in my files covering  
11 the situation.

12 MR. LORY: I accept that, your Honor.

13 THE COURT: Is there any objection to the sub-  
14 stituted volume?

15 MR. KAIN: No, your Honor.

16 MR. LORY: No, your Honor; I'm offering it.

17 THE COURT: Mr. Cohen?

18 MR. COHEN: No, your Honor.

19 (Plaintiff's Exhibit 2 received in  
20 evidence.)

21 MR. LORY: If we may now go to page 15 at line 23:

22 "Q Mr. Pitt, on November 24, 1968, how many cargo  
23 booms were located at the vessel's No. 3 hatch aboard  
24 the South African Huguenot?

25 "A Five.

xx

merf 93

"Q And could you tell me how many cargo booms were located at the forward end of No. 3 hatch?

"A Two.

"Q And how many at the after end?

"A Three.

"Q Do you recall the capacity of the cargo booms at the forward end of the No. 3 hatch?

"A Two, five-ton.

"Q How about the cargo booms at the after end of No. 3 hatch?

"A Two, five-ton and one, seven-ton.

"Q How many winches were there for the two, five-ton booms at the forward end of the No. 3 hatch?

"A Four. Two topping winches and two working winches.

"Q When you say 'topping winches,' what was the purpose of these winches, if you know, Mr. Pitt?

"A It is to top the booms to the correct angles prior to loading.

"Q Or discharging?

"A Or discharging.

"Q Where were these forward or where were the cargo winches located at the forward end of No. 3 hatch?

"A On top of a pump room -- pump room or mast house.



merf 94

"Pitt

296

"Q Could you tell me where the cargo winches were located at the after end of No. 3 hatch?

"A On top of a pump room or mast house.

"Q Could you describe for me the general description of the cargo winches for the five-ton booms at the forward end of the No. 3 hatch?

"A The two topping winches were situated -- the port and starboard topping winches were situated -- the port and starboard topping winches were situated next to the working winches.

"Q Could you give me a general description of the working winches at the forward end of No. 3 hatch? What type of winches were they?

"A They were electro -- hydraulic -- pardon me. Excuse me. They were hydraulic winches supplied by a pump in the pump room and driving a hydraulic motor.

"Q Was it possible to operate these cargo winches at the forward end of the No. 3 hatch on November 24, 1968 by means of a remote system?

"A Yes.

"Q And can you tell me what the remote system is or can you give me a general description of the remove system?

"A The remote system is situated between or in the center between the port and starboard winches and --

merf 95

"Pitt

297

"Q What is its purpose?

"A Its purpose is to allow both port and starboard winches to be operated by one man.

"Q And could you tell me, this remote system, how does it permit the operation by one man?

"A It is a system of a hydraulic remote operations whereby one man can control the hoisting and loading of the port and starboard winches.

"Q Mr. Pitt, if I refer to the, what you call the working cargo winches as the manual system, would you know what I was referring to?

"A Yes.

"Q Is it possible to operate these working winches by some means other than the remote control system to which you have just referred?

"A They can be worked manually by having one man at the station by the working winch itself, one man at each, port and starboard winch. As a matter of fact, you need two men.

"Q One man at each for a total of two men?

"A One man at each for a total of two men.

"Q Can you tell me how the hydraulic fluid was supplied to the manual system?

"A The hydraulic fluid was supplied to the manual



1 merf 96

2 system by electric driven pumps which supplies the oil to  
3 the manual or the working winch. This oil is supplied by  
4 a gravity tank.

5 "Q Could you tell me where this gravity tank was  
6 located for the winches at the forward end of the No. 3  
7 hatch?

8 "A It is atop a mast post and about forty feet  
9 above the pumps, the suction, the hydraulic pumps themselves.

10 "Q When you say above the pumps, above the suction,  
11 do you mean about forty feet above the suction side of  
12 the pump which supplies the manual system?

13 "A Yes.

14 "Q Did I understand you correctly to say that this  
15 tank, this gravity tank is secured to a mast post?

16 "A Yes.

17 "Q About forty feet --

18 "A Above the pumps.

19 "Q Which are located where?

20 "A In the pump room under the winches.

21 "Q Would you tell me what type of hydraulic oil  
22 was used on November 24, 1968 to supply this manual  
23 system? Was it a light hydraulic fluid or was it heavy?

24 "A Moderately heavy oil.

25 "Q And what quantity of hydraulic fluid was in this

